
3 1761 11649327 1


Digitized by the Internet Archive
in 2023 with funding from
University of Toronto

https://archive.org/details/31761116493271

VOLUME

1

Looking Forward, Looking Back

Report
of the Royal Commission
on Aboriginal Peoples



Canadian Cataloguing in Publication Data

Canada. Royal Commission on Aboriginal Peoples.
Report of the Royal Commission on Aboriginal Peoples.

Issued also in French under the title:
Rapport de la Commission royale sur les peuples autochtones.

Contents:
v. 1. Looking forward, looking back –
v. 2. Restructuring the relationship –
v. 3. Gathering strength –
v. 4. Perspectives and realities –
v. 5. Renewal: a twenty-year commitment
ISBN 0-660-16413-2 (V. 1);
ISBN 0-660-16414-0 (V. 2);
ISBN 0-660-16415-9 (V. 3);
ISBN 0-660-16416-7 (V. 4);
ISBN 0-660-16417-5 (V. 5).
Cat. no. Z1-1991/1-1E (V. 1);
Cat. no. Z1-1991/1-2E (V. 2);
Cat. no. Z1-1991/1-3E (V. 3);
Cat. no. Z1-1991/1-4E (V. 4);
Cat. no. Z1-1991/1-5E (V. 5).

1. Native peoples – Canada.
2. Native peoples – Canada – Social conditions.
3. Native peoples – Canada – Economic conditions.
4. Native peoples – Canada – Politics and government.
I. Title.

E78.C2R46 1996 971'.00497 C96-980078-9

LIBRARY
NOV 6 1 1996
UNIVERSITY OF TORONTO

© Minister of Supply and Services Canada 1996

Available in Canada through
your local bookseller
or by mail from
Canada Communication Group – Publishing
Ottawa, Canada K1A 0S9

Cat. no. Z1-1991/1-1E
ISBN 0-660-16413-2

Cover: Joane Cardinal-Schubert, RCA, "Moonstruck I", acrylic on paper, 64.5 x 54 centimetres, framed.
Endpapers: Mireille Siouï, "Dans la maison d'Handiaouich, la petite tortue", intaglio, watercolour on paper, 50 x 32.5 centimetres.
Both, collection of the Indian Art Centre, Department of Indian Affairs and Northern Development. Photographer, Lawrence Cook.
Photograph facing page 1: Fred Cattroll.

Canada	Groupe
Communication	Communication
Group	Canada
Publishing	Édition

AYF-1021

Royal Commission on Aboriginal Peoples

CANADA

Commission royale sur les peuples autochtones

To His Excellency
the Governor General in Council

May It Please Your Excellency

We have the honour to submit to you, pursuant to paragraph 10 of Order in Council P.C. 1991-1597, dated 26 August 1991, the Report of the Royal Commission on Aboriginal Peoples.

Respectfully submitted,

René Dussault
René Dussault, j.c.a.
Co-Chair

Georges Erasmus
Georges Erasmus
Co-Chair

P. Chartrand
Paul L.A.H. Chartrand
Commissioner

J. Peter Meekison
J. Peter Meekison
Commissioner

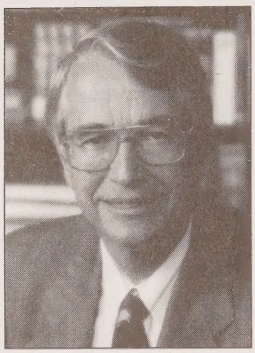
Viola M. Robinson
Viola Robinson
Commissioner

Mary Sillett
Mary Sillett
Commissioner

Bertha Wilson
Bertha Wilson
Commissioner

October 1996
Ottawa, Canada

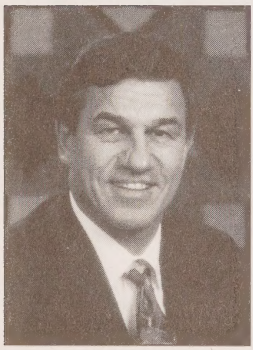
Members of the Royal Commission on Aboriginal Peoples



René Dussault, j.c.a.
Co-Chair



Georges Erasmus
Co-Chair



Paul L.A.H. Chartrand
Commissioner



J. Peter Meekison
Commissioner



Viola Marie Robinson
Commissioner



Mary Sillett
Commissioner



Bertha Wilson
Commissioner

VOLUME
1

LOOKING FORWARD, LOOKING BACK

CONTENTS

A Thanksgiving Address xvii

Opening the Door xxiii

1 Getting Started 1
1. Interpreting the Mandate 2
2. Looking Ahead 3
3. Imperatives for Change 5
4. A Matter of Trust 6
Notes 9

2 From Time Immemorial: A Demographic Profile 11
1. Historical Population Levels 11
2. Current Population 15
2.1 North American Registered Indian Population 15
2.2 Non-Status Population 17
2.3 The Métis Population 19
2.4 The Inuit Population 19
3. Projected Population Growth 21
Notes 23

PART ONE
The Relationship in Historical Perspective 29

3 Conceptions of History 31
1. Aboriginal and Non-Aboriginal Approaches to History 32
2. An Historical Framework 36
2.1 Stage 1: Separate Worlds 37
2.2 Stage 2: Contact and Co-operation 38

2.3 Stage 3: Displacement and Assimilation 38
2.4 Stage 4: Negotiation and Renewal 38
Notes 40

4 Stage One: Separate Worlds 43
1. People of the Dawn: The Mi'kmaq 46
2. Iroquoians and the Iroquois 50
3. The Blackfoot Confederacy 61
4. The Northwest Coast 72
5. Inuit Innovation 78
6. Conclusion 86
Notes 90

5 Stage Two: Contact and Co-operation 99
1. The Innu, the Wendat and the Fur Trade 105
2. The *Royal Proclamation of 1763* 111
3. Early Patterns of Treaty Making 119
3.1 Prior Traditions of Treaty Making – Confederacies in North America 119
3.2 Prior Traditions of Treaty Making – The European Experience 121
3.3 Pre-Confederation Treaties in Canada 122
3.4 Understanding Treaties and the Treaty Relationship 128
4. Conclusion 130
Notes 132

6 Stage Three: Displacement and Assimilation 137
1. The Imposition of a Colonial Relationship 141
2. The Forging of Métis Identity 148
3. Treaty Making in Ontario 155
3.1 The 1836 Manitoulin and Saugeen Treaties 156
3.2 The Lake Huron and Lake Superior Treaties of 1850 158
4. The Numbered Treaties 159
4.1 The Selkirk Treaty (1817) 160
4.2 Treaties 1 and 2 (1871) 161
4.3 The Northwest Angle Treaty – Treaty 3 165
4.4 Treaties 4, 5, 6 and 7 167
4.5 Northern Treaties: 8, 9, 10 and 11 171
5. Differing Assumptions and Understandings 173
6. Non-Fulfilment of Treaties 176
7. Restoring the Spirit of the Treaties 178

8. Extending Measures of Control and Assimilation 179
9. Conclusion 188
Notes 191

7 Stage Four: Negotiation and Renewal 201
1. Legislative and Constitutional Attempts: From the White Paper to Charlottetown, 1969-1992 202
2. The Role of the Courts 216
3. The Inuit Circumpolar Conference: The Emergence of Internationalism 229
4. Conclusion 234
Recommendations 237
Notes 238

Part Two
False Assumptions and a Failed Relationship 245

8 Introduction 247
1. False Assumptions 248
2. The Abuse of Power 249
3. The Four Policies in Brief 250
4. New False Assumptions 252
Notes 253

9 The *Indian Act* 255
1. The Paradox of *Indian Act* Reform 258
2. Indian Sovereignty and the *Royal Proclamation of 1763* 259
3. Indian Policy: Protection, Civilization, and Assimilation 263
4. Civilization to Assimilation: Indian Policy Formulated 267
5. The *Gradual Civilization Act:* Assimilating Civilized Indians 271
6. End of the Tripartite Imperial System 273
7. The *Gradual Enfranchisement Act:* Responsible Band Government 274
8. The *Indian Act* and Indians: Children of the State 276
9. The *Indian Act:* Oppressive Measures 281
9.1 Protection of the Reserve Land Base 282
9.2 Band Government and Law-Making Powers 285
9.3 Enfranchisement 286
9.4 Reserve Justice Administration 288
9.5 Attacks on Traditional Culture 291
9.6 Liquor Offences 293
9.7 Pool Room Prohibition 294
9.8 Sale of Agricultural Products 294

9.9 Indian Legal Claims 296
9.10 The Pass System 296
9.11 Indian Agents 297
9.12 Indian Voting Rights 299
9.13 Indian Women 300
9.14 Indian Status and Band Membership 303
10. Post-War Indian Policy Reform: Everything Old is New Again 307
11. The 1951 *Indian Act* Revision 310
12. The Modern Era: Contrasting Assumptions and Models of Self-Government 314
13. Conclusion 318
Notes 319

10 Residential Schools 333
1. The Vision and Policies of Residential School Education 337
1.1 The Vision 337
1.2 Changing Policies 344
2. Systemic Neglect: Administrative and Financial Realities 353
3. Discipline and Abuse 365
4. Epilogue 376
5. The Need for a Public Inquiry 382
Recommendations 385
Notes 386

11 Relocation of Aboriginal Communities 411
1. Why Relocations Took Place 414
1.1 Administrative Relocations 414
1.2 Development Relocations 415
2. Administrative Relocation 416
2.1 To Make Things Easier for Government 416
The Mi'kmaq of Nova Scotia 417
The Inuit of Hebron, Labrador 422
The Sayisi Dene (Manitoba) 430
The Yukon First Nations 439
The Gwa'Sala and 'Nakwaxda'xw (British Columbia) 443
The Mushuau Innu (Davis Inlet, Labrador) 448
From Old Davis Inlet to Nutak (1948) 449
From Old Davis Inlet to New Davis Inlet (Utshimasits) on Iluikoyak Island (1967) 450
Conclusion 454

2.2 To Improve the Lives of Aboriginal People 454
Encouraging self-sufficiency: dispersing the Baffin Island Inuit 454
Removal and resettlement in the Arctic 457
Other Inuit relocations 459
Nueltin Lake (1949) 459
Henik Lake (1957-58) 459
Rankin Inlet and Whale Cove 461
Banks Island 461
Baffin Island Centralization 461
Relocating Inuit to the south 463
Conclusion 465
3. Development Relocation 466
3.1 The Saugeen and the Bruce Peninsula 467
3.2 Getting the Songhees Out of the Way (1911) 468
3.3 The Métis of Ste. Madeleine and the *Prairie Farm Rehabilitation Act* (1935) 472
3.4 The Cheslatta T'en and the Kemano Hydro Project 475
3.5 The Chemawawin Cree and the Grand Rapids Dam 482
4. The Effects of Relocation 490
4.1 The Relationship to the Land, Environment and Culture 490
4.2 Economic Effects 494
4.3 Health Effects 498
4.4 Social and Political Effects 502
4.5 Effects on the Relationship Between Aboriginal and Non-Aboriginal People 504
5. Relocation and Responsibility 505
5.1 Responsibility of Governments 505
5.2 Establishing Standards for Relocation 510
5.3 Proposals for Reform 513
Accepting responsibility 513
A new role for the Canadian Human Rights Commission 513
Current powers 516
A clear mandate to review pre-1978 relocations 517
Alternative dispute resolution processes 517
Hearings 517
Investigative and subpoena powers 518
Remedies 518
Reporting 519
Funding 519
The CHRC and legal action 520

Future relocations 520
Recommendations 521
Notes 523

12 Veterans 545
1. Early Military Service 547
2. The First World War 549
3. Between the Wars 554
4. The Second World War 556
4.1 Enlistment 556
4.2 Community Support 564
4.3 Military Service 566
4.4 Veterans Benefits 571
Alienation of reserve lands 571
The dependants' allowance 572
Increasing the power of Indian agents 574
4.5 The *Veterans' Land Act* 574
The VLA altered for veterans living on-reserve 575
Criticism of the amended VLA 577
Abuses of Indian agents' power 579
The enfranchisement route to veterans' benefits 580
5. The Post-War Years 581
5.1 The Parliamentary Hearings of 1946-47 583
5.2 The Korean War 585
5.3 Testimony at the Royal Commission's Hearings 586
6. Epilogue 589
Recommendations 591
Notes 592

13 Conclusions 599
Notes 604

Part Three
Building the Foundations of a Renewed Relationship 605

14 The Turning Point 607
Notes 613

15 Rekindling the Fire 615
1. Finding Common Ground Between Cultures 615
2. Diverse Peoples, Common Goals 617
3. Words Are Not Enough 620

4. Meeting on the Trickster's Ground 623
5. Spirituality 628
6. The Land That Supports Us 631
7. Métis and Inuit Cultures 634
8. Ceremonies and Symbols 638
9. Culture and Social Relations 651
10. Culture and Economy 655
11. Culture and Government 658
12. Charting the Future with Insights from the Past 662
Notes 669

16 The Principles of a Renewed Relationship 675
1. The Basic Principles 677
1.1 The First Principle: Mutual Recognition 678
1.2 The Second Principle: Mutual Respect 681
1.3 The Third Principle: Sharing 685
1.4 The Fourth Principle: Mutual Responsibility 689
2. Maintaining the Relationship 691
3. Conclusion 694
Recommendations 695, 696
Notes 697

Appendix A The Commission's Terms of Reference 699
Appendix B Biographical Notes on Commissioners 703
Appendix C Abridged Tables of Contents, Volumes 2-5 706
Appendix D The *Royal Proclamation of 1763* 720
Appendix E Summary of Recommendations in Volume 1 726

A Note About Sources

Among the sources referred to in this report, readers will find mention of testimony given at the Commission's public hearings; briefs and submissions to the Commission; submissions from groups and organizations funded through the Intervener Participation Program; research studies conducted under the auspices of the Commission's research program; reports on the national round tables on Aboriginal issues organized by the Commission; and commentaries, special reports and research studies published by the Commission during its mandate. After the Commission completes its work, this information will be available in various forms from a number of sources.

This report, the published commentaries and special reports, published research studies, round table reports, and other publications released during the Commission's mandate will be available in Canada through local booksellers or by mail from

Canada Communication Group – Publishing
Ottawa, Ontario
K1A 0S9

A CD-ROM will be published following this report. It will contain the report, transcripts of the Commission's hearings and round tables, overviews of the four rounds of hearings, research studies, the round table reports, and the Commission's special reports and commentaries, together with an educators' resource guide. The CD-ROM will be available in libraries across the country through the government's depository services program and for purchase from

Canada Communication Group – Publishing
Ottawa, Ontario
K1A 0S9

Briefs and submissions to the Commission, as well as research studies not published in book or CD-ROM form, will be housed in the National Archives of Canada after the Commission completes its work.

A Note About Terminology

The Commission uses the term *Aboriginal people* to refer to the indigenous inhabitants of Canada when we want to refer in a general manner to Inuit and to First Nations and Métis people, without regard to their separate origins and identities.

The term *Aboriginal peoples* refers to organic political and cultural entities that stem historically from the original peoples of North America, rather than collections of individuals united by so-called 'racial' characteristics. The term includes the Indian, Inuit and Métis peoples of Canada (see section 35(2) of the *Constitution Act, 1982*).

Aboriginal people (in the singular) means the individuals belonging to the political and cultural entities known as 'Aboriginal peoples'.

The term *Aboriginal nations* overlaps with the term Aboriginal peoples but also has a more specific usage. The Commission's use of the term nation is discussed in some detail in Volume 2, Chapter 3, where it is defined as a sizeable body of Aboriginal people with a shared sense of national identity that constitutes the predominant population in a certain territory or collection of territories.

The Commission distinguishes between local communities and nations. We use terms such as *a First Nation community* and *a Métis community* to refer to a relatively small group of Aboriginal people residing in a single locality and forming part of a larger Aboriginal nation or people. Despite the name, a First Nation community would not normally constitute an Aboriginal nation in the sense that the Commission defined the term above. Rather, most (but not all) Aboriginal nations are composed of a number of communities.

Our use of the term *Métis* is consistent with our conception of *Aboriginal peoples* as described above. We refer to the *Métis* as distinct Aboriginal peoples whose early ancestors were of mixed heritage (First Nations, or Inuit in the case of the Labrador Métis, and European) and who associate themselves with a culture that is distinctly Métis. The more specific term *Métis Nation* is used to refer to Métis people who identify themselves as a nation with historical roots in the Canadian west. Our use of the terms *Métis* and *Métis Nation* is discussed in some detail in Volume 4, Chapter 5.

Following accepted practice and as a general rule, the term *Inuit* replaces the term *Eskimo*. As well, the term *First Nation* replaces the term *Indian*. However, where the subject of discussion is a specific historical or contemporary nation, we use the name of that nation (e.g., Mi'kmaq, Dene, Mohawk). Often more than one spelling is considered acceptable for these nations. We try to use the name preferred by particular nations or communities, many of which now use their traditional names. Where necessary, we add the more familiar or generic name in parentheses – for example, Siksika (Blackfoot).

Terms such as *Eskimo* and *Indian* continue to be used in at least three contexts:

1. where such terms are used in quotations from other sources;
2. where *Indian* or *Eskimo* is the term used in legislation or policy and hence in discussions concerning such legislation or policy (e.g., the *Indian Act;* the Eskimo Loan Fund); and
3. where the term continues to be used to describe different categories of persons in statistical tables and related discussions, usually involving data from Statistics Canada or the Department of Indian Affairs and Northern Development (e.g., status Indians on-reserve, registered Indians).

Commissioners appointed *to the Royal Commission on Aboriginal Peoples held close to one hundred meetings, each usually lasting several days, between the fall of 1991 and the fall of 1995. On these and other important occasions, such as the public hearings, opening and closing ceremonies were held and a prayer or thanksgiving address was offered to the Creator for the safe arrival of persons to the meeting or their safe return home to their families, for the start or ending of a day, and for all the living things that are part of the Circle of Life.*

If a meeting was about to begin, those who participated were asked to approach the day with a good mind, to speak clearly and honestly with each other, and to listen carefully to what was being said. It was emphasized that, when people come together for high purposes and to deal with difficult issues, their minds must be clear.

Those associated with the Commission experienced the strength gained when people come together in a supportive manner and for a common purpose. They felt the power that is generated when people use a good mind to come to one mind. It is in this spirit that the Commission begins its final report with a thanksgiving address that, in one form or another, was spoken many times at the Commission and from time immemorial among the Haudenosaunee (Iroquois).

A Thanksgiving Address

It is said that, as we walk the path that is our life, there are times when things happen to distract us. When this happens it is easy for us to lose our way and stray from the path that is the good mind, and we suddenly find ourselves stumbling through the brush. As we struggle to push our way through the underbrush, trying to regain the clear path, we pick up burrs and thorns that cling to our clothing, pricking our skin. We get dusty and scared. Our fear causes us to cry and our hearts to pound.

It is good to see that you have arrived here safely and that we may spend some time together. I know that you have come from far away and that many obstacles were in your way. And yet, despite these obstacles, you are able to be here. I take you by the hand as a brother or a sister. I offer you words of greeting and respect. I offer you food and drink.

I speak these words so that your mind may be put at ease and your load lightened. We come together in this way because your mind is distracted. We come to offer our thoughts and our support. We come to lift the weight of your burden from your shoulders and to share it among us. We know that as an individual you are very strong. But, we also know there are times when we need the strength of others. We understand that when we are in pain, the mind is distracted and we find it difficult to use the power of a good mind.

First, we take the finest eagle feather we can find, and with this eagle feather, we brush away the dust that clings to you. We remove any burrs or thorns or twigs that may be caught on your clothing. We remove these things because they surely cause you pain and discomfort. And so, we hope this makes you feel more comfortable and more at ease.

Your eyes may be filled with tears because of that with which you are struggling. These tears blur your vision and sting your eyes. There may be a sound

like roaring in your ears because of the fear, pain and anger you may be feeling. And so, we take the finest and softest deer skin we can find. We gently wipe away your tears so that you may see the beauty that is all around you and your friends and relations who have gathered here to support and help you. Next, we wipe away any obstruction in your ears that may prevent you from hearing the good words that people speak to help ease your suffering. We offer you a place to sit so that you may rest your weary body.

Finally, your fear, your pain and your anger may cause an obstruction in your throat. It is important to remove that obstruction so that, when you speak, your words may come loudly and clearly so that all may understand what is troubling you. And so, we offer you a drink of pure, cool water. Water is indeed one of the most powerful medicines we have, for it has the ability to give and to sustain life. The water will help to remove that which clogs your throat. It soothes your insides and quenches your thirst.

And so, with all this we hope you are now more comfortable and we have helped to ease your burden. We hope these words have helped to restore a sound mind, body and spirit. We hope that now you may focus, with a clear and good mind, on the words of thanksgiving, the Ohentonkariwatehkwen (the words that come before all others). We celebrate the fact that life exists, for we understand that it is by pure chance that it does.

And so it is Sonkwaiatison, our Creator, that as we prepare to begin this new day, we take a few moments to centre ourselves, to reflect on who we are, on our place within the Circle of Life, and on our responsibilities to all of Creation.

We begin by turning our thoughts to you, Ietinistenhen Ohontsa, our sacred Mother, the Earth. We know that you are sick and you are dying at this time because of the way we, the two-legged, show you disrespect and abuse of your gifts. And yet despite this, your love for your children is such that you continue to provide all we need to survive on a daily basis. You continue to fulfil your responsibilities and carry out your duties in accordance with the instructions given you in the beginning of time. For this we are grateful. And so it is, we turn our minds to you, we acknowledge you and we give thanks. So be it in our minds.

We understand that we share our time here with many different forms of life. From the smallest micro-organisms and the insects that live in the body of our Mother Earth, it is your responsibility to keep the body of our Mother healthy and strong. It is your duty to fight the effects of pollution. We know your task is great at this time because of the demands we, the two-legged, place upon you. And yet, despite this, you continue to struggle with the weight of the burden we place upon you. You fight to carry out your responsibilities and fulfil your obligations in accordance with the original instructions. Because of this, the cycle continues. And so it is, we turn our minds to you, we acknowledge you and we give thanks. So be it in our minds.

We turn our minds to the different forms of life that walk on the face of Mother Earth. There are those of you who crawl and those of you who slither. We acknowledge you Okwaho (wolf), Okwari (bear) and Anowarah (turtle). You represent our clans, our families. There are those of you who provide us with shelter, tools, clothing and food. We call you Skanionsa, the moose and Oskenonton, the deer. You give of yourselves so that we may survive. We understand that there is a relationship of respect that must exist among us.

We turn our minds to the fish and other forms of life that live in the bodies of water. We know that you struggle because of the disrespect we show you. We pollute your world and treat you as resources and products.

We look now to all the different birds that are around us. When the Creator made you, he gave your feathers the colours of the rainbow. He gave each of you a beautiful and distinctive song and he asked that you greet each new day with that beautiful song. Every day, when your voices come together in a beautiful chorus, we are reminded of the importance of the diversity and harmony in Creation.

From among the birds the Creator chose you, Akweks, our brother, the Eagle. You are the strongest and are able to fly the highest. Your keen eyesight allows you to see the Creation. Upon your shoulders, the Creator placed the added burden of being the Creator's messenger. Our Elders teach us that, should you appear in a dream and speak to us, we should pay particular attention to your words. For it is said that you are bringing a message directly from the Creator. All the creatures continue to carry out your duties and to fulfil your responsibilities in accordance with the original instructions. Because of this, the cycle of life continues and for this we are grateful. And so, we turn our minds to you, we acknowledge you and we give thanks. So be it in our minds.

We turn our minds to the rooted nations of Creation. We acknowledge the trees. And you, Wahta (the maple), you provide us with wood for heat, tools and shelter. You also provide us your life's blood so that we may have Wahta osis (maple syrup) for medicine. It is indeed a happy time when you give us this gift, for we know the Creation is awakening and the cycle of life continues. We look forward to the time when you, Niionhontehsha, the strawberry, will show yourself once again. You are a powerful medicine and we know that, if you appear, the harvest will be good and our people will not go hungry. We acknowledge the grasses, the medicine plants. We greet you, the Three Sisters – Onenste (corn), Osaheta (beans) and Onononsera (squash). You are the staple of my people. We know that, when we plant you together, you protect one another from disease and insects. And in so doing, you teach us a valuable lesson about the need for diversity. And so it is, we turn our minds to you, we acknowledge you and we give thanks. So be it in our minds.

We turn our minds to you, the various bodies of water. The rivers, the lakes, the oceans and the springs. You fulfil a vital function in the continuation of the

cycle of life. You provide us with the most powerful medicine there is, for water has the ability to give and to sustain life. For this we are grateful, so we acknowledge you and we give thanks. So be it in our minds.

As we look around us this morning, we see, Karakwa, our brother the Sun, that you have chosen to grace us with your presence once more. You bring the warmth of a new day. You bring us light so that we may see the beauty that surrounds us. Working with all the other elements of Creation, you help perpetuate the cycle of life. We know that your time with us will be short this day and that you will soon disappear where the sky and earth come together in the west.

We know that, as darkness surrounds us, Ahsontenka Karakwa (Grandmother Moon), you will watch over us. You work with all the female life in the universe. You decide when children will be born. You work with the waters and help to keep the cycle going. We are reminded every day, as you share the sky with Karakwa, of the balance that must be maintained between the roles of the female and of the male. We are reminded of the equal importance of both, and we understand that without the one, there is no other.

As we look to the night sky, we see you Tsiiotsistokwaronion (the stars). Some of our Elders teach us that you represent the spirits of those who have gone on before us. You represent the past, our history, and yet you are still here in the present. We understand that your teachings are as old as time itself, and yet they remain unchanged by the passage of time. You also show us the way into the future and we have but to look to you for guidance. And so, we take a moment to reflect on this and, because the cycle continues, we turn our minds to you, we acknowledge you and we give thanks. So be it in our minds.

Once again this morning, we have felt the presence of unseen forces that are around us at all times. We feel the air. You represent the breath of the Creator and you bind all life together in an unbreakable circle. We understand that we must respect your gift for, should we ever destroy you, we will destroy all life and the cycle will end. We feel the presence of the winds. Coming from the Four Directions, you bring the changing seasons. You help to keep the air we breathe clean and pure. We understand the importance of your gift and we are grateful. And so, we turn our minds to you, we acknowledge you and we give thanks. So be it in our minds.

And now we come to you, Sonkwaiatison. You have created all this and you have given us certain instructions. We see that all the different nations of your Creation struggle to carry out the instructions you gave them in the beginning of time. They continue to strive in fulfilling their responsibilities and carrying out their duties as you have asked them to. It seems that only we, the two-legged, have difficulty in remembering your instructions. We seem to be blind to the lessons you have placed all around us. We are deaf to your teachings.

We invite you to spend some time with us. Move among us, feel our hearts and our minds. We have done our best to remember our place within the Circle

of Life. But, we are frail and afraid. We build many things to help us survive, to help us control your Creation. The Ohentonkariwatehkwen (the words that come before all others) help to remind us of our responsibilities and duties. One day, we hope that we will begin to see the wonders of your Creation. Perhaps we will learn to live in harmony with it, rather than trying to control it. Perhaps we will see that all things, and all people, have their rightful place in the Circle. We hope that you are pleased with us and that we have shown you the respect you merit. We have done our best to honour you and the rest of Creation.

Finally, we acknowledge one another, female and male. We give greetings and thanks that we have this opportunity to spend some time together. We turn our minds to our ancestors and our Elders. You are the carriers of knowledge, of our history. We acknowledge the adults among us. You represent the bridge between the past and the future. We also acknowledge our youth and children. It is to you that we will pass on the responsibilities we now carry. Soon, you will take our place in facing the challenges of life. Soon, you will carry the burden of your people. Do not forget the ways of the past as you move toward the future. Remember that we are to walk softly on our sacred Mother, the Earth, for we walk on the faces of the unborn, those who have yet to rise and take up the challenges of existence. We must consider the effects our actions will have on their ability to live a good life.

We offer a special thought for our families, our friends and our loved ones, wherever they may be. We ask that you watch over them and keep them well until we can rejoin them. If it should be your desire to call one of them back to your side, that will be a sad time and we will grieve. We understand, however, that this is the greatest honour we can achieve and we will try to not let our grief hold them back from the journey they must make.

Finally, Sonkwaiatison, we ask that you give us all the courage, the strength and the wisdom to use the power of the good mind in all we do. Help us to speak clearly and honestly so that we may understand one another, how we feel and why. Help us to listen carefully to what others say and not to react in anger when negative things are said. Help us to understand that even painful words contain teachings and that we must sometimes look hard and listen carefully to find them. And so it is, Sonkwaiatison, that we have reflected on our place within the Circle of Life and on our responsibilities to all of Creation. Life continues, and we are grateful for what we have. So be it in our minds.

Kanatiio (Allen Gabriel)
Kanesatakeronnon (Kanesatake Mohawk, Bear Clan)



Opening the Door

This report of the Royal Commission on Aboriginal Peoples concerns government policy with respect to the original historical nations of this country. Those nations are important to Canada, and how Canada relates to them defines in large measure its sense of justice and its image in its own eyes and before the world. We urge governments at all levels to open the door to Aboriginal participation in the life and governance of Canada.

The approach proposed in this report offers the prospect of change in both the short and the long term. Broad support can be expected in Canada for policy changes that better the life conditions of Aboriginal people, that lead to the enhancement of educational and economic opportunities, and that help to establish healthier and happier neighbourhoods. Aboriginal people can be expected to welcome changes that assist individuals and communities to gather strength and renew themselves. But our approach extends beyond these changes.

In the Commission's public hearings, Aboriginal people explained to us that their various nations have distinct cultures, with unique knowledge and understandings of the world around them. Across the globe, there is a growing awareness that cultural diversity is of critical importance for the survival of humanity. An appreciation of the uncertainty of the future carries with it an appreciation of the value of unique cultural insights. The preservation of distinct cultures is important to Canada, therefore, not only in the interests of the various cultural groups, but as a matter of enlightened Canadian self-interest.

Justice demands, moreover, that the terms of the original agreements under which some Aboriginal peoples agreed to become part of Canada be upheld. Promises ought to be kept. Undertakings ought to be fulfilled. Solemn commitments ought to be honoured.

Equality and security require the majority population of Canada to accommodate the distinct cultures of all its historical nations. Individuals are born into these cultures, and they secure their personal identity through the group into which they are born. This is their birthright, and it demands the recognition and respect of all Canadians and the protection of the state.

Aboriginal peoples anticipate and desire a process for continuing the historical work of Confederation. Their goal is not to undo the Canadian federation; their goal is to complete it. It is well known that the Aboriginal peoples in whose ancient homelands Canada was created have not had an opportunity to participate in creating Canada's federal union; they seek now a just accommodation within it. The goal is the realization for everyone in Canada of the principles upon which the constitution and the treaties both rest, that is, a genuinely participatory and democratic society made up of peoples who have chosen freely to confederate.

Canada's image of itself and its image in the eyes of others will be enhanced by changes that properly acknowledge the indigenous North American foundations upon which this country has been built. Aboriginal people generally do not see themselves, their cultures, or their values reflected in Canada's public institutions. They are now considering the nature and scope of their own public institutions to provide the security for their individual and collective identities that Canada has failed to furnish.

The legitimate claims of Aboriginal peoples challenge Canada's sense of justice and its capacity to accommodate both multinational citizenship and universal respect for human rights. More effective Aboriginal participation in Canadian institutions should be supplemented by legitimate Aboriginal institutions, thus combining self-rule and shared rule. The Commission's proposals are not concerned with multicultural policy but with a vision of a just multinational federation that recognizes its historical foundations and values its historical nations as an integral part of the Canadian identity and the Canadian political fabric.

Historically, the door has not been open for the just participation of Aboriginal peoples and their representatives in Canada. The Commission heard about misunderstandings concerning the treaties and about federal policies that ignored solemn commitments made in these treaties once the newcomers were settled and assumed control. Federal legislation, we find, has unilaterally defined 'Indians' without regard to the terms of the treaties and without regard to cultural and national differences among Aboriginal peoples. The participation of Aboriginal people as individuals, generally on the margins of society, has not met the standards of justice that Commissioners believe Canadians would wish to uphold.

History also shows how ancient societies in this part of North America were dispossessed of their homelands and made wards of a state that sought to obliterate their cultural and political institutions. History shows too attempts to

explain away this dispossession by legally ignoring Aboriginal peoples, in effect declaring the land *terra nullius* – empty of people who mattered. This is not a history of which most Canadians are aware. It is not a history of democratic participation, nor is it a history that reflects well on Canada or its sense of justice. It is essential to recognize and respect the common humanity of all people – to recognize and respect Aboriginal people as people who do matter and whose history matters, not only to them but to all Canadians.

This Commission concludes that a fundamental prerequisite of government policy making in relation to Aboriginal peoples is the participation of Aboriginal peoples themselves. Without their participation there can be no legitimacy and no justice. Strong arguments are made, and will continue to be made, by Aboriginal peoples to challenge the legitimacy of Canada's exercise of power over them. Aboriginal people are rapidly gaining greater political consciousness and asserting their rights not only to better living conditions but to greater autonomy.

Opening the door to Aboriginal peoples' participation is also a means of promoting social harmony. The unilateral exercise of federal authority to make and implement policy can no longer be expected to attract enduring legitimacy; it must be discarded in favour of the principle of participation. It is vital for Canada to be seen as legitimate by all its inhabitants. The strength of a geographically vast and culturally diverse country like Canada rests on the commitment and mutual respect of its peoples. The true vision of Canada is that of a multinational country, strengthened by the commitment of individuals to their natural and historical ties and to a federal union that promotes the equal security and development of all its partners.

Federal policy toward Aboriginal people has its roots in a power set out in the constitution of 1867. Since early British colonial times a legislative power has been reserved to the central government to protect the interests of Aboriginal peoples, first from local settler interests and, since 1867, from provincial interests. This unique feature of Canadian federalism has continuing significance today, since it includes the means to carry out positive obligations owed to Aboriginal peoples. In this report we explain that constitutional, legal, and political obligations proscribe the unilateral and arbitrary exercise of this federal power. It must be exercised in furtherance of the interests of Aboriginal peoples and not in derogation of those interests. This is a basic principle of the constitution supplemental to the principle of participation.

Contemporary Canadians reject the paternalism of yesterday and recognize that Aboriginal people know best how to define and promote their own interests. This report makes a number of recommendations to ensure that the principle of participation is the basis of future federal policy.

The federal obligation to act in the interests of Aboriginal peoples is now being recognized and implemented by the courts through the concept of fiduciary

duty. This concept requires governments to acknowledge Aboriginal people as people who matter, not only in history but in real life today, and who have rights at common law and in the constitution that it is the federal government's duty to protect.

The concept of fiduciary duty and the principle of participation are intimately connected. Whenever governments intend to exercise their constitutional powers to legislate or make policies that may affect Aboriginal peoples in a material way, particularly in an adverse way, they would be wise to engage first in a process of consultation. The constraints imposed by the common law and the constitution on the exercise of arbitrary governmental power would seem to require no less.

The courts have also begun to probe the nature of Aboriginal peoples' rights, including the relationship between Aboriginal individuals and groups and Canadian institutions. Commissioners believe that the door to Aboriginal group participation in Canada has been opened by recognition of an inherent right of self-government in the common law of Aboriginal rights and in the treaties. This right of peoples to be self-governing affords a solid legal foundation on which governments in Canada can enter into agreements with Aboriginal peoples to establish appropriate working relationships. There is no further need, if indeed there ever was a need, for unilateral government action. The treaty is still Aboriginal peoples' preferred model.

Where treaties have already been made, they establish a unique legal and political relationship that the federal government is bound to preserve and maintain. New and renewed treaties can serve the same purpose.

The role of the courts is limited in significant ways. They develop the law of Aboriginal and treaty rights on the basis of a particular set of facts before them in each case. They cannot design an entire legislative scheme to implement self-government. Courts must function within the parameters of existing constitutional structures; they cannot innovate or accommodate outside these structures. They are also bound by the doctrine of precedent to apply principles enunciated in earlier cases in which Aboriginal peoples had no representation and their voices were not heard. For these reasons courts can become unwitting instruments of division rather than instruments of reconciliation.

We learned from our hearings and from the research we commissioned that Aboriginal peoples share strongly held views of the relationship between their nations, their lands, and their obligations to the Creator. The concept of Aboriginal title as developed in English and Canadian courts is at sharp variance with these views, as are the courts' interpretations of some of the historical treaties. It is crucial that judicial decisions on such fundamental issues be made on the basis of full knowledge and understanding of Aboriginal cultures and spiritual beliefs. To do otherwise is to attribute to people perceptions and intentions that are repugnant to the very essence of their being.

Participation in the courts requires Aboriginal people to plead their cases as petitioners in a forum of adversaries established under Canadian law. There is a certain irony in this, since in many instances the adversary they face is also the fiduciary that is obligated to protect their interests. The situation is, to say the least, anomalous, and it would appear that the courts cannot really substitute for a political forum where Aboriginal representatives can develop their own visions of political autonomy within Canada.

There are other, broader considerations to assess in considering the nature of Aboriginal participation in the institutions of Canada. In 1982 the constitution was amended to recognize and affirm the Aboriginal and treaty rights of the Aboriginal peoples of Canada. Those amendments contained a promise to amend the constitution further to determine the nature and scope of those rights. The constitutional promise was not fulfilled in the first ministers conferences conducted for that purpose, and the basic constitutional promise of 1982 is still outstanding.

There have been important changes in recent years in the nature of Aboriginal peoples' participation in statecraft in Canada. Since the white paper proposal to eliminate the distinct status of 'Indians' and the prime minister's refusal in 1969 to recognize the treaties, Canadian society has developed a greater willingness to include Aboriginal peoples as partners in the Canadian enterprise. This has been shown by the participation of Aboriginal representatives in first ministers meetings on constitutional reform, among other changes. With increased participation, Aboriginal peoples anticipate that they, and their voices, will matter more in the Canada of the future. In a sense, participation in the Canadian polity has created a more just image of Canadian society, but that image will remain what it is – an image – until participation succeeds in achieving a full measure of justice for Canada's First Peoples.

1

Getting Started

> The geese migrate because they have responsibilities to fulfil at different times and in different places. Before they fly they gather together and store up energy. I believe strongly that our people are gathering together now, just like the geese getting ready to fly. I am tremendously optimistic that we will soon take on the responsibilities we were meant to carry in the world at large.
>
> Jim Bourque[1]

> As an ordinary Canadian I feel deeply that this wonderful country is at a crucial, and very fragile, juncture in its history. One of the major reasons for this fragility is the deep sense of alienation and frustration felt by, I believe, the vast majority of Canadian Indians, Inuit and Métis. Accordingly, any process of change or reform in Canada – whether constitutional, economic or social – should not proceed, and cannot succeed, without aboriginal issues being an important part of the agenda.
>
> Brian Dickson[2]

Although Jim Bourque and Brian Dickson come from different cultures and backgrounds, they are recognized for their vision and dedication to the common good. They give voice to a sense of anticipation, apparent in many quarters of Canadian society, that Aboriginal people are poised to assume a vital role in shaping the future of Canada. But optimism about what can be achieved in the relationship between the Aboriginal and non-Aboriginal people of this land is tempered by the remembrance of past failures to come to one mind and by some foreboding that another failure could have dire consequences.

This Royal Commission on Aboriginal Peoples was born in a time of ferment when the future of the Canadian federation was being debated passionately. It came to fruition in the troubled months following the demise of the Meech Lake Accord and the confrontation, in the summer of 1990, between Mohawks and the power of the Canadian state at Kanesatake (Oka), Quebec.[3] As we complete the drafting of our report in 1995, further confrontations at Ipperwash, Ontario, and Gustafson Lake, British Columbia, signal that the underlying issues that gave rise to our Commission are far from resolved.

1. Interpreting the Mandate

The Commission, established on 26 August 1991, was given a comprehensive mandate:

> The Commission of Inquiry should investigate the evolution of the relationship among aboriginal peoples (Indian, Inuit and Métis), the Canadian government, and Canadian society as a whole. It should propose specific solutions, rooted in domestic and international experience, to the problems which have plagued those relationships and which confront aboriginal peoples today. The Commission should examine all issues which it deems to be relevant to any or all of the aboriginal peoples of Canada...[4]

In four years of consultations, research and reflection we have come to see clearly that the problems that plague the relationship cannot be addressed exclusively or primarily as Aboriginal issues. The questions we probed during our inquiry and the solutions that emerged from our deliberations led us back insistently to examine the premises on which Canadian law and government institutions are founded and the human values that Canadians see as the core of their identity.

The analysis we present and the avenues of reconciliation we propose in this and the other four volumes of our report do not attempt to resolve the so-called 'Aboriginal' problem.[5] Identifying it as an Aboriginal problem inevitably places the onus on Aboriginal people to desist from 'troublesome behaviour'. It is an assimilationist approach, the kind that has been attempted repeatedly in the past, seeking to eradicate Aboriginal language, culture and political institutions from the face of Canada and to absorb Aboriginal people into the body politic – so that there are no discernible Aboriginal people and thus, no Aboriginal problem.

Our report proposes instead that the relationship between Aboriginal and non-Aboriginal people in Canada be restructured fundamentally and grounded in ethical principles to which all participants subscribe freely.

The necessity of restructuring is made evident by a frank assessment of past relations. We urge Canadians to consider anew the character of the Aboriginal

nations that have inhabited these lands from time immemorial; to reflect on the way the Aboriginal nations in most circumstances welcomed the first newcomers in friendship; to ask themselves how the newcomers responded to that generous gesture by gaining control of their lands and resources and treating them as inferior and uncivilized; and how they were designated as wards of the federal government like children incapable of looking after themselves. Canadians should reflect too on how we moved them from place to place to make way for 'progress', 'development' and 'settlement', and how we took their children from them and tried to make them over in our image.

This is not an attractive picture, and we do not wish to dwell on it. But it is sometimes necessary to look back in order to move forward. The co-operative relationships that generally characterized the first contact between Aboriginal and non-Aboriginal people must be restored, and we believe that understanding just how, when and why things started to go wrong will help achieve this goal.

2. Looking Ahead

In this volume we turn our attention to Canadian history, presenting glimpses of the relationship between Aboriginal and non-Aboriginal people as it has unfolded at various times and places and examining four policies that have cast a long shadow over that relationship. We argue that consideration of this history will surely persuade the thoughtful reader that the false assumptions and abuses of power that have pervaded Canada's treatment of Aboriginal people are inconsistent with the morality of an enlightened nation. We delineate the elements of the turning point we are approaching, or that may already be upon us, and we explore the vitality of diverse Aboriginal traditions and their relevance for contemporary life. In the concluding chapter we set out four principles we adopted as reference points for our own work and that we propose as the ethical ground on which a new relationship can and should be built.

The structures needed to transform political and economic relations between Aboriginal people and the rest of Canadian society are the subject of Volume 2, entitled *Restructuring the Relationship*. Treaties are the historical expressions of nation-to-nation exchanges. Aboriginal people have always regarded treaties as embodying a living relationship, and in Volume 2 we propose how they can serve to structure relations in the future. New institutions of self-government, bringing together ancient wisdom and contemporary realities, are already emerging in various regions, and we undertake to describe the varied paths of development that such institutions might take. We maintain that Aboriginal nations have an inherent right to determine their own future within Canada and that the governments of Aboriginal nations should be recognized as a third order of government in the Canadian federation. Treaties and agreements that provide for the orderly evolution of relations between Aboriginal

governments and their federal and provincial counterparts will be advantageous for Aboriginal nations and for Canadian society as a whole. Resolution of long-standing questions about land will require new approaches to conceptualizing land title and managing land use. We introduced some of these approaches in our report on extinguishment.[6] We develop these further in Volume 2 with a view to achieving redistribution of land and resources between Aboriginal and non-Aboriginal people, as a matter of justice and as a means of re-establishing the economic base for Aboriginal self-reliance. The concluding chapter of Volume 2 addresses various means by which Aboriginal economies can be put on a stable footing through mixed economies that rely in part on traditional modes of harvesting renewable resources and through fuller engagement of Aboriginal individuals and institutions in wage and market economies.

We address the requirements for structuring a new relationship in advance of urgent issues of social policy because commitment to changing historical patterns of Aboriginal disadvantage must be reflected in public institutions. Structural change will require time and can be accomplished only with the active participation of healthy, well-educated citizens, nurtured by stable families and supportive communities. Action to establish the political, economic and governmental institutions detailed in Volume 2 must therefore be accompanied by effective action to resolve persistent social problems that undermine the morale and vitality of Aboriginal nations and their communities.

In Volume 3, *Gathering Strength*, we address practical questions of how public policy can help to restore Aboriginal families to wholeness and health, how health and social services can be reorganized to use Aboriginal expertise and Aboriginal support systems, how housing and community infrastructure can be brought up to a standard that supports health and dignity, and how educational effort can be applied more effectively. We also consider the policy implications of a commitment to acknowledging and affirming the importance of Aboriginal languages and cultures in Canadian society. We emphasize that adoption of far-sighted, culturally appropriate policies and initiatives, under the authority of Aboriginal people themselves, cannot and should not await new regimes of self-government. Our social policy recommendations are designed to be implemented in the current environment, to enhance Aboriginal capacity for self-reliance and self-government, and to make inroads immediately on unacceptable social conditions and relative disadvantage.

In Volume 4, *Perspectives and Realities*, we highlight the diversity that characterizes First Nations, Inuit and Métis people in their various regions and communities. We note that Aboriginal people affirm their intention to retain their distinct identities in relation to non-Aboriginal people; they also affirm their distinctive histories, cultures and identities in relation to one another. In Volume 4 we bring together the voices of women, elders and youth speaking on a range of issues in our mandate, and we examine particular challenges

confronted by Métis people and by Aboriginal people living in the North and in urban settings.

In his report to the prime minister on the mandate and membership of this Commission, Brian Dickson urged "that the government actively address the process and mechanisms for considering, adopting and implementing the Commission's recommendations."[7] To assist in this process, in Volume 5, *Renewal: A Twenty-Year Commitment,* we present a plan for implementation, including a program of public education and an estimate of the financial costs of not taking action. The human costs of maintaining antiquated laws, economic disadvantage and a pervasive sense of powerlessness among Aboriginal people are evident throughout the five volumes of this report and others published earlier.[8]

3. Imperatives for Change

In our review of past commissions and task forces we discovered many well-founded recommendations for improving the situation of Aboriginal people in Canada.[9] Yet in the 30 years since a comprehensive survey of Indians in Canada was published in the Hawthorn report,[10] the gains that are recognized as widely accepted indicators of well-being have been very modest. At the same time the demands of Aboriginal people for recognition as nations and peoples with the right to determine their own place in Canadian society and to shape their own future have become more insistent. We understand the growing support in many parts of Canadian society for greater opportunities for control by Aboriginal people of decisions that affect their collective lives, but we see the need to go beyond a reorganization of existing structures and jurisdictions.

We believe firmly that the time has come to resolve a fundamental contradiction at the heart of Canada: that while we assume the role of defender of human rights in the international community, we retain, in our conception of Canada's origins and make-up, the remnants of colonial attitudes of cultural superiority that do violence to the Aboriginal peoples to whom they are directed. Restoring Aboriginal nations to a place of honour in our shared history, and recognizing their continuing presence as collectives participating in Canadian life, are therefore fundamental to the changes we propose.

The contributions of Aboriginal people to the richness and diversity of Canadian life are gaining visibility in discussions of environment and northern development, in the arts and education and, as we will see in Volume 3, in leading-edge thinking about the foundations of health. For these contributions to the common good to be realized fully, Aboriginal people require avenues, which have been largely denied by Canadian institutions, for expressing their distinctive world view and applying their traditions of knowledge. The resultant loss has impeded cross-cultural understanding and denied successive generations of Canadians the cultural resources that are part of our shared heritage.

Demographic projections, reflecting the fact that Aboriginal people will assume a larger presence in Canada in the next two decades, add to the motivation for embarking on a new course. The well-documented social and economic disadvantage experienced by Aboriginal people as a whole and the increasing urbanization that has occurred in the past generation add other imperatives for change. The social unrest that invariably ensues when a disaffected underclass lives in close proximity to a relatively privileged majority is well known. Redressing social and economic inequities will benefit Aboriginal people in improving living conditions and quality of community life; it will benefit all Canadians as Aboriginal people become full participants in Canadian society, contributing to the productivity and well-being of society as a whole.

We make the case, in this and subsequent volumes, not only for more just treatment of Aboriginal people now and in the future but also for restorative justice, by which we mean the obligation to relinquish control of that which has been unjustly appropriated: the authority of Aboriginal nations to govern their own affairs; control of lands and resources essential to the livelihood of families and communities; and jurisdiction over education, child welfare and community services. We also argue for measures to achieve corrective justice, eliminating the disparities in economic base and individual and collective well-being that have resulted from unjust treatment in the past.

Making room in institutions of governance for Aboriginal nations to exercise control over their collective lives and safeguard the interests of their citizens is one step on the way to a more just relationship. Correcting negative effects of past treatment is another. Both steps could conceivably be undertaken without a fundamental realignment of relations between Aboriginal and non-Aboriginal people. Even if that happened, the changes would still fall short of the transformation in consciousness that we believe is necessary and desirable. Political, economic and social restructuring is part of the equation, but we also envisage relations characterized by respect and reciprocity, relations in which Aboriginal people exercise their sacred gifts in the service of the whole community, and newcomers and their descendants come to value the wisdom of this ancient land as well as its wealth and beauty.

4. A Matter of Trust

We have no illusions about the difficulties standing in the way of negotiations to renew the relationship. Efforts at reform, whether in political relations or social policies over the past 25 years, have failed repeatedly to effect substantial change, because Aboriginal and government stakeholders have frequently reached an impasse on matters of principle or perception even before practical problems could be addressed.

Such was the case throughout the 1980s regarding the principle of the inherent right of Aboriginal peoples to govern themselves. Such was the case with extinguishment; Aboriginal people and the Canadian government maintained irreconcilable positions that stalled the settlement of land questions, even though both parties sincerely wanted a resolution. On both these issues the Commission has made proposals designed to find common ground.[11] But moving away from entrenched, polarized positions is extremely difficult when one stakeholder or both feel threatened.

How do participants move away from a relationship characterized by disparity in power, violations of trust, and lingering, unresolved disputes? How do they move toward a relationship of power sharing, mutual respect and joint problem solving? Much of our final report is devoted to finding answers that are unique to Canadian circumstances, but there is much to be learned from the experience of other countries that are trying to repair troubled relationships between peoples.[12] We expect, too, that the analysis and recommendations in our report will add to the repertoire of creative solutions to historical problems being explored by nation-states and Aboriginal peoples around the globe.

The starting point for renewing the relationship, urged upon Commissioners by Aboriginal people speaking to us in hearings across the country, must be deliberate action to "set the record straight". With few exceptions, the official record of Canada's past – recorded in government documents, in the journals and letters of traders and colonial officers, in history books and in court judgements – ignores and negates Aboriginal people's view of themselves and their encounters with settler society.

Until the story of life in Canada, as Aboriginal people know it, finds a place in all Canadians' knowledge of their past, the wounds from historical violence and neglect will continue to fester – denied by Canadians at large and, perversely, generating shame in Aboriginal people because they cannot shake off the sense of powerlessness that made them vulnerable to injury in the first place. Violations of solemn promises in the treaties, inhumane conditions in residential schools, the uprooting of whole communities, the denial of rights and respect to patriotic Aboriginal veterans of two world wars, and the great injustices and small indignities inflicted by administration of the *Indian Act* – all take on mythic power to symbolize present experiences of unrelenting injustice.

The Commission is convinced that before Aboriginal and non-Aboriginal people can get on with the work of reconciliation, a great cleansing of the wounds of the past must take place. The government of Canada, on behalf of the Canadian people, must acknowledge and express deep regret for the spiritual, cultural, economic and physical violence visited upon Aboriginal people, as individuals and as nations, in the past. And they must make a public commitment that such violence will never again be permitted or supported.

Aboriginal people need to free themselves of the anger and fear that surges up in any human being or collective in response to insult and injury, and extend forgiveness to the representatives of the society that has wronged them. In this respect the sacred ceremonies and spiritual traditions of diverse nations can be very instructive, preparing people to let go of negative feelings that can sap the energy needed for more positive pursuits.

The purpose of engaging in a transaction of acknowledgement and forgiveness is not to bind Aboriginal and non-Aboriginal people in a repeating drama of blaming and guilt, but jointly to acknowledge the past so that both sides are freed to embrace a shared future with a measure of trust.

Because we believe that the restoration of trust is essential to the great enterprise of forging peaceful relations, our recommendations for formally entering into a new or renewed relationship, to be marked by a Royal Proclamation, include an acknowledgement of wrongs inflicted on Aboriginal people in the past.

Ensuring that trust, once engendered, is honoured, is a continuing responsibility, one that cannot be left to governments alone, pulled as they are by the tides of events and fleeting priorities. The establishment of institutions to formalize and implement a renewed relationship will lend stability to the commitments we are recommending. In addition, in Volume 5 we set out a proposal for public education to broaden awareness of the heritage that all Canadians share with Aboriginal people. It is our conviction that appreciation of the distinctive place that Aboriginal nations occupy in the Canadian federation and of the mutual, continuing responsibilities engendered by that relationship, must permeate Canadian intellectual and ceremonial life. To this end, some of our recommendations address the need to ensure that Aboriginal history is documented and disseminated and that Aboriginal symbols take their place alongside the symbols of Canada's colonial past in public events.

A Métis senior speaking at our Calgary hearings described in personal terms the importance of shared memories and public affirmation in establishing bonds between generations:

> It is important to us that when we reminisce, the listeners will nod their heads and say, "Yes, that is how it was. I remember."
>
> Alice J. Wylie
> Mawusow Seniors Club
> Calgary, Alberta, 26 May 1993[13]

Let us now begin a walk together through history to establish common perceptions of where the Aboriginal and non-Aboriginal people who share this land have come from and to search out common ground on which to build a shared future.

Notes

1. Personal communication to Commissioners, May 1994. The Honourable Jim Bourque, PC, is a Métis person who is recognized, particularly in the Northwest Territories and the Yukon, as an elder. His experience and service have included living on the land as a trapper and serving as president of the Metis Association of the Northwest Territories, deputy minister of renewable resources in the government of the Northwest Territories, and chair of the commission on constitutional development in the Western Arctic.

2. *Report of the Special Representative respecting the Royal Commission on Aboriginal Peoples* (Ottawa: 2 August 1991), p. 3. The Right Honourable Brian Dickson is the former chief justice of Canada. He was appointed by the prime minister as special representative respecting the Royal Commission on Aboriginal Peoples. The quotation is from his report recommending the establishment of the Commission.

3. For a discussion of events surrounding the establishment of the Commission, see Chapter 7 in this volume.

4. The full text of the terms of reference, as set out in the order in council of 26 August 1991 (P.C. 1991-1597), is provided in Appendix A.

5. For an overview of the rest of our report, see the tables of contents for the other four volumes in Appendix C of this volume.

6. Royal Commission on Aboriginal Peoples [RCAP], *Treaty Making in the Spirit of Co-existence: An Alternative to Extinguishment* (Ottawa: Supply and Services, 1995).

7. *Report of the Special Representative* (cited in note 2), p. 27.

8. See RCAP, *The High Arctic Relocation: A Report on the 1953-55 Relocation* (1994); *Choosing Life: Special Report on Suicide Among Aboriginal People* (1995); *Bridging the Cultural Divide: A Report on Aboriginal People and Criminal Justice in Canada* (1996).

9. RCAP, *Public Policy and Aboriginal Peoples, 1965-1992*, 4 volumes (Ottawa: Supply and Services, 1993-1996).

10. Indian Affairs and Northern Development, *A Survey of the Contemporary Indians of Canada*, ed. H.B. Hawthorn, 2 volumes (Ottawa: Information Canada, 1966, 1967).

11. RCAP, *Partners in Confederation: Aboriginal Peoples, Self-Government, and the Constitution* (Ottawa: Supply and Services, 1993); and *Treaty Making in the Spirit of Co-existence* (cited in note 6).

12. The government of New Zealand has undertaken a process of reconciliation with the signing of the Deed of Settlement by the Crown and Waikato-Tainui on 22 May 1995 and passage of the *Waikato-Tainui Raupatu Claims Settlement Act* by the New Zealand Parliament. The act was given royal assent in November 1995.

    The government of Australia established the Council for Aboriginal Reconciliation in September 1991. It is composed of 25 members – 12 Aborigines

from various parts of the country, two Torres Strait Islanders, and 11 non-Aboriginal Australians representing such sectors as government, trade unions, business, mining, agriculture and the media. Its goals are to increase understanding between indigenous and non-indigenous Australians, to provide a forum for discussing issues related to reconciliation and policies for promoting reconciliation, and to consult on whether a formal document of reconciliation would advance relations. See Henry Reynolds, "Aboriginal Governance in Australia", research study prepared for RCAP (1994).

See also Douglas Sanders, "Developing a Modern International Law on the Rights of Indigenous Peoples", and "Indigenous Peoples and Canada's Role on the International Stage", research reports prepared for RCAP (1994); and Joseph Montville, "The Healing Function in Political Conflict Resolution", in *Conflict Resolution Theory and Practice: Integration and Application*, ed. Dennis J.D. Sandole and Hugo van der Merwe (Manchester: Manchester University Press, 1993).

13. Quotations from transcripts of the Commission's public hearings are identified with the speaker's name and affiliation (if any) and the location and date of the hearing. See *A Note About Sources* at the beginning of this volume for information about transcripts and other Commission publications.

2

From Time Immemorial: A Demographic Profile

The term aboriginal obscures the distinctiveness of the First Peoples of Canada – Inuit, Métis and First Nations. With linguistic differences, for example, there are more than 50 distinct groupings among First Nations alone. Among Inuit, there are several dialects within Inuktitut, and the Métis people speak a variety of First Nations languages such as Cree, Ojibwa or Chipewyan, as well as Michif, which evolved out of their mixed ancestry.

To provide a context for the discussion of relations between Aboriginal and non-Aboriginal people, we look briefly at the population size, location and demographic characteristics of Aboriginal peoples in Canada.

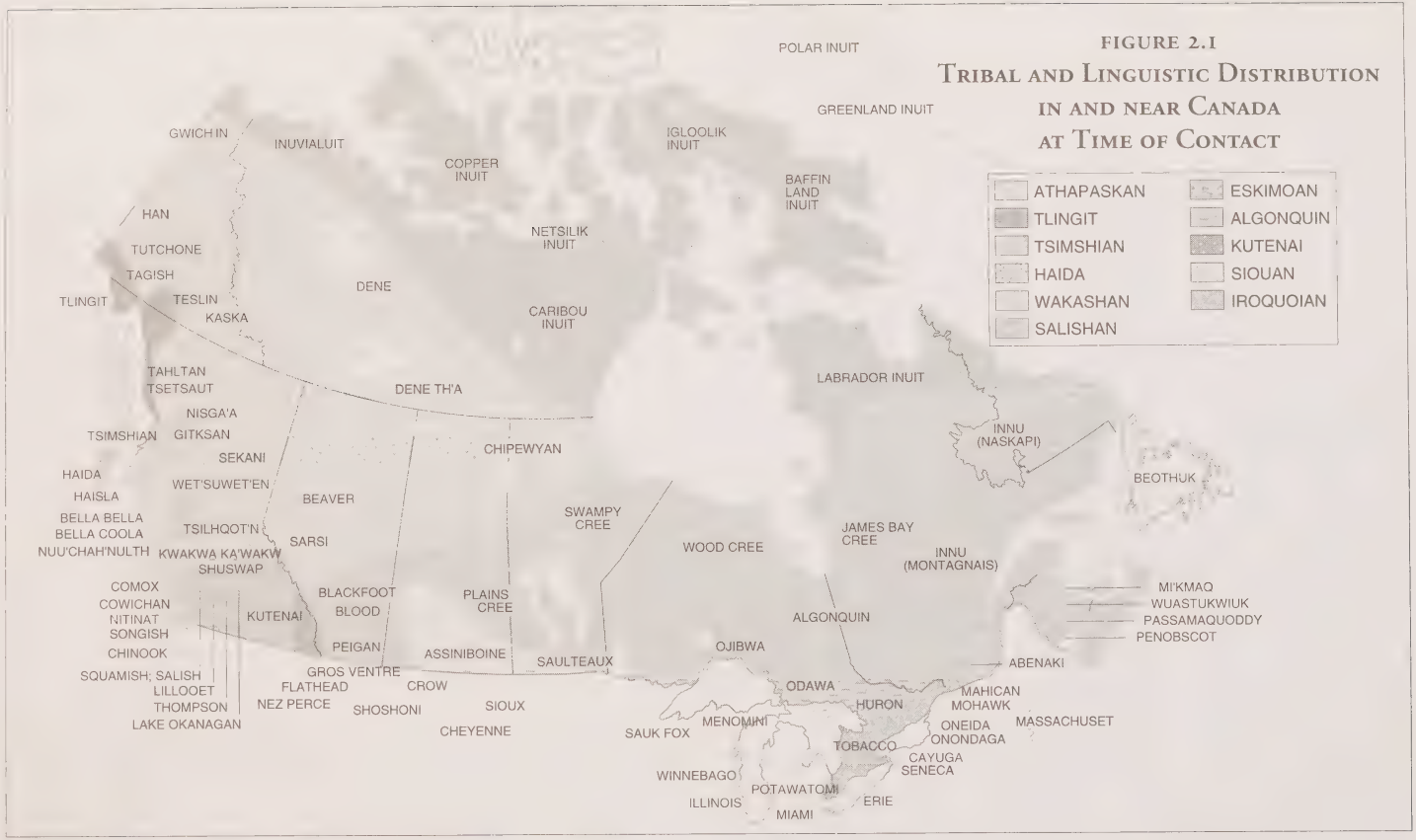
1. Historical Population Levels

Aboriginal people often say that they have been here since time immemorial and, indeed, evidence of their presence as Indigenous people is well documented. Estimates of the date of human habitation in North America range up to 40,000 years ago, and Olive Dickason reports that

> By about 11,000 [years ago] humans were inhabiting the length and breadth of the Americas, with the greatest concentration of population being along the Pacific coast of the two continents. ...About 5,000-8,000 years ago, when climate, sea levels and land stabilized into configurations that approximate those of today, humans crossed a population and cultural threshold, if one is to judge by the increase in numbers and complexity of archaeological sites.[1]

Considerable debate among experts continues with respect to the size of the indigenous population at the point of first sustained contact with Europeans.

FIGURE 2.1
Tribal and Linguistic Distribution in and near Canada at Time of Contact



Note: The lines on the map separating the various tribal groups are not precise boundaries. The map provides a general picture of where populations were living at the time of first European contact.

Source: Adapted from Olive P. Dickason, *Canada's First Nations: A History of Founding Peoples from Earliest Times* (Toronto: McClelland & Stewart Inc., 1992), p. 65. Used with the permission of McClelland & Stewart Inc.

In the area that was to become Canada, an early scholarly estimate is 221,000 people, a figure derived by compiling published reports, notes of European explorers and other sources to estimate the size of the various nations.[2] This estimate has been criticized because it pertains not to initial contact but rather to initial *extensive* contact – a time when indigenous populations could already have been seriously affected by diseases spread through incidental contact with Europeans, or indeed through indirect contact via diseases spread through indigenous trading networks.

Using different methodologies, other experts derive estimates that exceed 2 million people.[3] Indeed, Dickason points out that estimates of the size of pre-contact populations in the western hemisphere have been increasing steadily in recent years:

> They have increased with better understanding of Native subsistence bases and with greater awareness of the effect of imported diseases in the sixteenth century; in some cases these spread far ahead of the actual presence of Europeans, decimating up to 93 per cent of Native populations.... Archaeological evidence is mounting to the point where it can now be argued with growing conviction, if not absolute proof, that the pre-Columbian Americas were inhabited in large part to the carrying capacities of the land for the ways of life that were being followed and the types of food preferred.[4]

The figure of 500,000 for the indigenous population at the time of initial sustained contact with Europeans is perhaps the most widely accepted today,[5] although many would regard it as a conservative estimate.

From Figure 2.1 we see that the territories of the various Aboriginal peoples at the time of contact covered the entire area of what was eventually to become Canada.

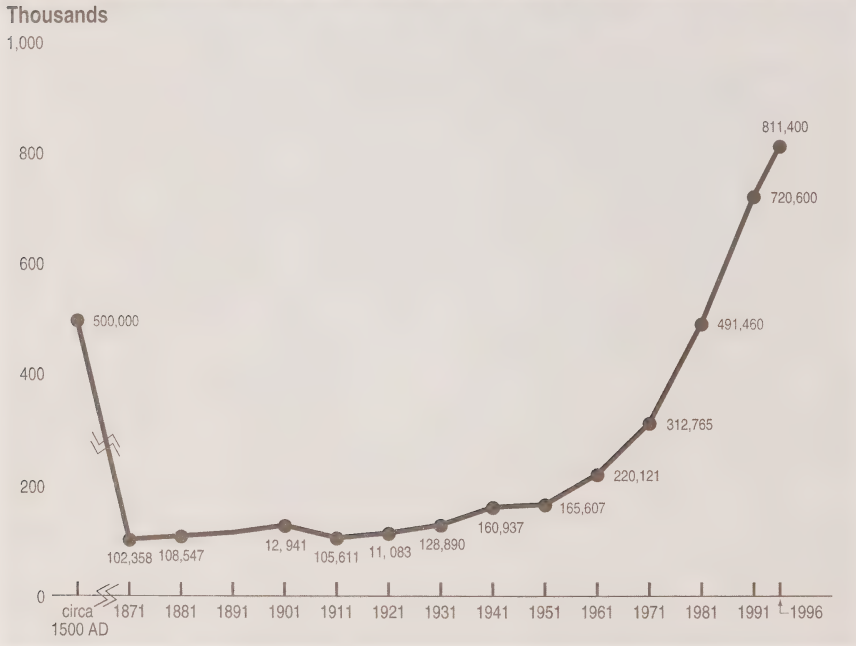
The diseases brought to North America by Europeans from the late 1400s onward, diseases to which the indigenous inhabitants had little resistance, had an enormous impact on Aboriginal population levels. During 200 to 300 years of contact, diseases such as smallpox, tuberculosis, influenza, scarlet fever and measles reduced the population drastically.[6] Armed hostilities and starvation also claimed many lives.

The extent of the decline varied from one Aboriginal nation to another and also depended, of course, on the population size before contact. However, a census estimate of the size of the Aboriginal population in Canada in 1871 places the number at 102,000 (Figure 2.2). It would take more than 100 years – until the early 1980s – before the size of the Aboriginal population again reached the 500,000 mark.

During the period from the mid-1940s to the present there was a rapid growth in the Aboriginal population. For people registered as 'Indians' under the

Indian Act, birth rates ran very high, compared to that of the total population of Canada, until the mid-1960s. At the same time, with improvements in health care delivery on reserves and gradual improvements in community infrastructure, the high rate of infant mortality began a rapid decline in the 1960s. Consequently, the rate of natural increase (the difference between the number of births and the number of deaths) was very high in this period. The birth rate

FIGURE 2.2
Aboriginal Population in Selected Years



Notes:

1. Population counts varied over the period 1871-1951 not only because of demographic change but also because of changes in Canada's geo-political boundaries. For a complete discussion see G. Goldmann (1993).

2. The 1991 and 1996 counts have been adjusted for undercoverage in the Aboriginal Peoples Survey. See M.J. Norris et al. (1995).

Source: Andrew J. Siggner, "The Socio-Demographic Conditions of Registered Indians", in *Arduous Journey: Canadian Indians and Decolonization*, ed. J. Rick Ponting (Toronto: McClelland and Stewart, 1986), p. 57; Margaret Conrad, Alvin Finkel and Cornelius Jaenen, *History of the Canadian Peoples: Beginnings to 1867* (Mississauga: Copp Clark Pittman Ltd., 1993); Gustave Goldmann, "The Aboriginal Population and the Census: 120 Years of Information – 1871 to 1991", paper presented to the International Union for the Scientific Study of Demography, Montreal, August 1993; and Mary Jane Norris, Don Kerr and François Nault, "Projections of the Aboriginal Identity Population in Canada, 1991-2016", research study prepared for RCAP (1995).

began a rapid decline in the latter part of the 1960s, however, and this decline continued into the 1970s, although the rate never fell as low as the overall Canadian rate did in that period. While equivalent data are sparse for other Aboriginal groups, their age structures appear to match closely that of the registered Indian population, suggesting that they too experienced a demographic transition from high fertility rates to lower ones along with significant declines in mortality rates.

2. Current Population

According to the two most recently published data sources, the number of Aboriginal people in Canada in 1991 was between 626,000 and just over 1,000,000, depending on the definition and data source used. The 1991 census reported the latter figure, based on a question that determined *cultural origins* or *ancestry*, while the former figure resulted from a 1991 national survey of Aboriginal people known as the Aboriginal Peoples Survey (APS), also conducted by Statistics Canada. Unlike the census, this survey focused on those who *identified* with their Aboriginal ancestry.[7]

Both approaches to identifying the Aboriginal population have merit, but the Commission has relied primarily on the count of those who *identify* with their Aboriginal ancestry. It does so knowing that some portion of the 375,000 who do not do so now may well do so in the future. However, there was some undercoverage in the APS, and Statistics Canada has adjusted the 626,000 figure (at the Commission's request) to compensate for it. Thus, the adjusted figure for the identity-based Aboriginal population is 720,000.[8]

As noted, a full survey of Aboriginal people was last conducted in 1991. To establish the population size for 1996 and later years, the Commission asked Statistics Canada to develop a population projection model. By 1996 the total Aboriginal population is projected to be just over 811,400 or 2.7 per cent of the total population of Canada (29,963,700).[9] The population of the major Aboriginal groups projected for 1996 is shown in Table 2.1.

For statistical and other purposes, the federal government usually divides the Aboriginal population into four categories: North American Indians registered under the *Indian Act*, North American Indians not registered under the *Indian Act* (the non-status population), Métis people and Inuit. Basic population characteristics of each group are described below using the 1991 Aboriginal Peoples Survey as the source.

2.1 North American Registered Indian Population

The North American Indian (identity-based) population was estimated at 550,700 in 1991, 438,000 of whom were registered Indians.[10] While a majority of registered North American Indians (58.1 per cent) lived on reserves and

in Indian settlements (254,600), a sizeable minority (41.9 per cent) lived in non-reserve areas (estimated at 183,400), most in urban locations (Figure 2.3).

In terms of their geographic distribution, 62 per cent of registered North American Indians lived in what the Commission has defined as southern Canada, while the other 38 per cent lived in the North (32 per cent are in the mid-north and 6 per cent in the far north). Within the mid-north zone, two-thirds of the

TABLE 2.1
Estimated Aboriginal Identity Population by Aboriginal Group, 1996

	1996 Population (projected)	
Aboriginal Group	Number	Per Cent
North American Indian	624,000	76.9
Métis	152,800	18.8
Inuit	42,500	5.2

Note: Population counts are rounded to the nearest hundred. Count of people identifying themselves as North American Indian includes registered and non-registered people.

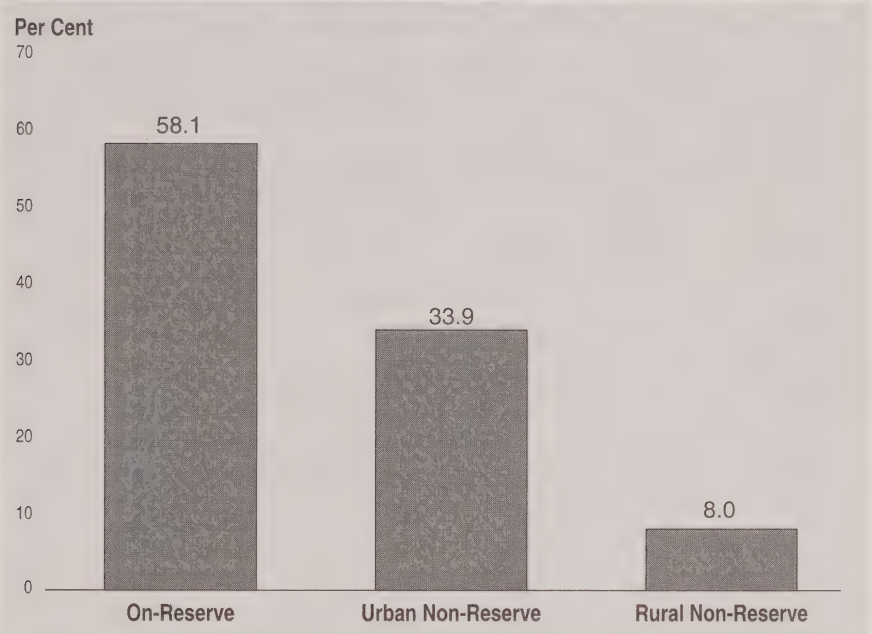
TABLE 2.2
Aboriginal Identity Population Percentage Distribution by Zone of Residence and Aboriginal Identity Group, 1991

	North American Indian				
Zone of Residence	Registered	Non-Registered	Métis	Inuit	Total
Far North	5.9	2.1	4.5	88.8	9.7
Mid-North	32.2	17.4	25.0	0.8	26.4
On-reserve	20.7	1.7	2.0	0.1	12.4
Non-reserve	11.6	15.7	22.9	0.8	14.0
South	61.8	80.5	70.5	10.3	63.9
On-reserve	24.5	1.5	0.6	0.1	14.2
Non-reserve	37.3	79.0	69.9	10.3	49.7

Notes:
1. Based on unadjusted 1991 APS data.
2. Total includes North American Indian population with unknown registration status and population reporting multiple responses to the Aboriginal identity question in the 1991 Aboriginal Peoples Survey.

Source: Statistics Canada, Aboriginal Peoples Survey, custom tabulations (1991).

FIGURE 2.3
Adjusted Registered North American Indian Identity Population by Residence, 1991



Source: M.J. Norris, D. Kerr and F. Nault, "Projections of the Aboriginal Identity Population in Canada, 1991-2016", research study prepared for RCAP (1995).

population lived on reserves and in settlements.[11] In the south, the population was more likely to live in non-reserve areas than on reserves (Table 2.2).

Perhaps the most important issue raised during the Commission's hearings was maintenance of cultural identity. In Table 2.3, estimates for the North America Indian population are presented by linguistic/cultural affiliation.[12] For example, the Cree make up the largest linguistic group (31 per cent of this population), followed by the Ojibwa (about 22 per cent).

2.2 Non-Status Population

A significant share of the North American Indian population is not registered under the *Indian Act*. In 1991 this population was estimated to be about 112,600. Geographically, the non-registered Indian population is distributed quite differently from the registered Indian population. About 80 per cent live in southern Canada, 17 per cent live in the mid-north and two per cent live in the far north, with a large proportion living in non-reserve areas (Table 2.2).

TABLE 2.3
Estimated Adjusted Registered North American Indian Identity Population Distribution by Linguistic/Cultural Grouping, 1991

Linguistic/ Cultural Grouping	Adjusted Identity Population		Linguistic/ Cultural Grouping	Adjusted Identity Population	
	number	per cent		number	per cent
Abenaki	1,385	0.3	Iroquois Confederacy	(35,910)	(7.3)
Algonquin	6,635	1.5	-Mohawk	25,175	5.7
Attikamek	3,320	0.8	-Cayuga	3,770	0.9
Beaver	1,390	0.3	-Oneida	4,395	1.0
Bella Coola	890	0.2	-Onondaga	780	0.2
Blackfoot	11,845	2.7	-Seneca	530	0.1
Carrier	6,260	1.4	-Tuscarora	1,260	0.3
Tsilhqot'n	2,060	0.5	Kaska	1,050	0.2
Coast Tsimshian	4,990	1.1	Kutenai	580	0.1
Comox	1,210	0.3	Kwakwa̲ ka'wa̲kw	4,440	1.0
Cree	137,680	31.4	Lillooet	3,790	0.9
Dakota	10,570	2.4	Maliseet	3,490	0.8
Delaware	1,400	0.3	Mi'kmaq	16,965	3.9
Dene Nation	(20,100)	(4.6)	Montagnais/Naskapi	10,530	2.4
-Chipewyan	9,230	2.1	Nisga'a	3,705	0.8
-Dogrib	2,545	0.6	Nootka	5,090	1.2
-Gwich'in	1,970	0.4	Ojibwa	94,350	21.5
-Hare	1,170	0.3	Okanagan	2,605	0.6
-Slavey	5,185	1.2	Potawatomi	140	0.03
Gitksan	4,210	1.0	Sarcee	900	0.2
Haida	2,560	0.6	Sechelt	695	0.2
Haisla	1,090	0.2	Sekani	745	0.2
Halkomelem	9,725	2.2	Shuswap	5,500	1.3
Han	445	0.1	Squamish	2,235	0.5
Heiltsuk	1,465	0.3	Straits	1,855	0.4
Huron	2,155	0.5	Tahltan	1,410	0.3
			Thompson	4,170	1.0
			Tlingit	1,425	0.3
			Tutchone	2,290	0.5
			Wet'suwet'en	1,705	0.4
			Total	**438,000**	**99.6**

Notes:

1. Information on the methodology and data sources used to prepare this table is found in note 24 at the end of this chapter.
2. Totals may not add because of rounding. All population counts have been rounded to 0 or 5.
3. Grand total does not include the Innu of Labrador, who were not registered under the *Indian Act*. The 1991 census reported 1,165 persons as Montagnais/Naskapi (or Innu) in Newfoundland and Labrador.

Source: See note 24 at the end of this chapter.

The non-status Indian population will continue to grow not only through natural increase, but also because of the effects of Bill C-31, which amended the *Indian Act* in 1985. This change allowed a large number of persons who had lost their status under the act's old provisions to regain status, but it also has resulted and will continue to result in certain children not obtaining status under the amended *Indian Act*.[13] Thus, by the year 2041, in the absence of action to address this situation, it has been predicted that the absolute size of the status Indian population will begin to decline, based on assumptions about future rates of marriage between people with status and those without it.[14] In other words, within two generations, the ranks of the non-status population will swell at the expense of the status Indian population.

2.3 The Métis Population

The 1982 constitutional amendments included the Métis people as one of the three Aboriginal peoples of Canada. The government has not kept records of this population. Before 1981, the term 'halfbreed' which no doubt included many Métis, was used in a limited number of censuses.[15] In 1901, the census reported 34,481 'halfbreeds', and in 1941 the number reached 35,416.[16] It was not until 1981 that the term Métis was used in the census, at which time approximately 126,000 persons gave their origin as Métis (as a single category response or as part of a multiple response on the ethnic origin question).[17]

As of 1991, the population self-identifying as Métis was estimated at 139,000.[18] Regionally, most Métis people are concentrated in the prairie provinces, with an estimated population of 101,000 (Table 2.4). About 24,000 live in Ontario, Quebec and the Atlantic provinces, and a total of 14,000 in British Columbia, the Northwest Territories and the Yukon. The majority of Métis people reside in urban areas (65 per cent), while the remainder live in rural areas (32 per cent) and on reserves (about 3 per cent).

2.4 The Inuit Population

Unlike the Métis people, Inuit have been counted in censuses since early in this century. In 1921 the count was approximately 3,000,[19] and by 1971 the population had reached just over 25,000.[20] By 1991 the Inuit population was estimated at nearly 38,000. The vast majority (89 per cent) live in the far north – Labrador, northern Quebec, the Northwest Territories and the Yukon, and only 10 per cent live in southern Canada (Table 2.2). Most Inuit live in rural locations or small urban areas.

In 1991 an estimated 18,000 Inuit were living in what will be the new territory of Nunavut, in what is currently the eastern portion of the Northwest Territories (see Volume 4, Chapter 6).

TABLE 2.4
Adjusted Aboriginal Identity Population by Region and Aboriginal Group, 1991

	North American Indian									
	Registered		Non-Registered		Métis		Inuit[3]		Total	
Region	#[1]	%	#	%	#	%	#	%	#	%
Atlantic[2]	15,800	3.6	4,800	4.3	2,500	1.8	4,800	12.7	27,700	3.8
Quebec	43,700	10.0	9,800	8.7	9,100	6.5	7,200	19.0	69,300	9.6
Ontario	91,500	20.9	39,600	35.2	12,800	9.2	900	2.2	143,100	19.9
Manitoba	65,100	14.9	8,500	7.5	34,100	24.5	500	1.3	107,100	14.9
Saskatchewan	59,900	13.7	6,500	5.8	27,500	19.7	200	0.4	93,200	12.9
Alberta	60,400	13.8	18,400	16.3	39,600	28.4	1,400	3.7	118,200	16.4
British Columbia	87,900	20.1	23,800	21.1	9,400	6.7	500	1.4	120,700	16.7
Yukon[4]	4,400	1.0	500	0.4	200	0.1	—	0.2	5,100	0.7
Northwest Territories[4]	9,300	2.1	800	0.7	4,200	3.0	22,200	58.7	36,200	5.0
Total	**438,000**	**100.0**	**112,600**	**100.0**	**139,400**	**100.0**	**37,800**	**100.0**	**720,600**	**100.0**

Notes:

— population count is less than 100.

1. All counts are rounded to the nearest hundred.
2. The Inuit count for the Atlantic region is actually for Labrador. The APS reported an unadjusted Inuit count of 55 in Nova Scotia and in New Brunswick. These counts were flagged to be used with caution because of sampling variability.
3. To obtain estimated counts for the Inuit population (3,560) in regions other than Labrador, Quebec and the Northwest Territories, the 1991 APS unadjusted counts were used to derive the shares of the adjusted Inuit population in each remaining region.
4. The adjusted count of non-registered North American Indian and Métis populations in the Yukon and Northwest Territories were derived using their respective percentage shares in each territory based on unadjusted 1991 APS data.

Source: M.J. Norris, D. Kerr and F. Nault, "Projections of the Aboriginal Identity Population in Canada, 1991-2016", research study prepared for RCAP (1995).

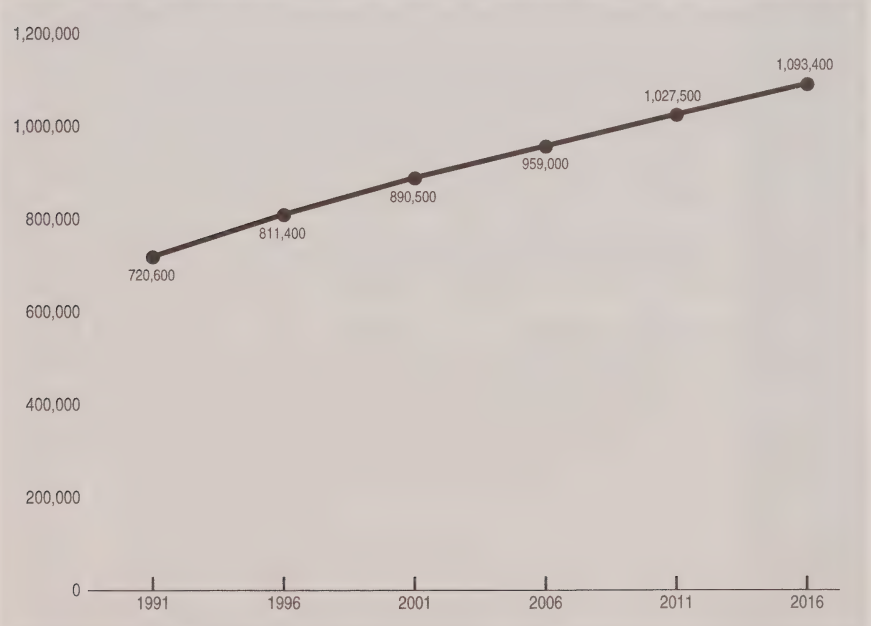
3. Projected Population Growth

A population grows as a result of three factors: births, deaths and migration. It is well known that the Aboriginal population has been growing more rapidly than the Canadian population as a whole, mainly because of much higher fertility rates. Mortality is also higher than in the general population. However, a significant decline in the infant mortality rate in the 1960s, coupled with a fertility rate, particularly among registered Indians,[21] that did not decline rapidly until the late 1960s, produced rapid growth in the Aboriginal population during the 1960s and early '70s.

During the 1980s, both fertility and mortality rates continued their decline, and they are expected to maintain this decline throughout the 1991-2016 projection period. Net migration among Aboriginal people has been relatively minor and is not expected to affect the overall growth of the Aboriginal population.

As a result of the rapid decline in infant mortality rates during the 1960s, a period when fertility rates remained high, a large generation of Aboriginal chil-

FIGURE 2.4
Projected Aboriginal Identity Population, 1991-2016



Note: Numbers have been rounded to the nearest hundred.

Source: M.J. Norris, D. Kerr and F. Nault, "Projections of the Aboriginal Identity Population in Canada, 1991-2016", research study prepared for RCAP (1995).

TABLE 2.5
Adjusted Aboriginal Identity Population as a Percentage of Total Population by Region 1991, 1996, 2006 and 2016

	1991		1996		2006		2016	
Region	#	%	#	%	#	%	#	%
Atlantic	27,700	1.2	30,300	1.3	33,900	1.4	37,300	1.5
Quebec	69,300	1.0	76,400	1.0	87,300	1.1	97,300	1.1
Ontario	143,100	1.4	159,500	1.4	183,800	1.4	203,300	1.3
Manitoba	107,100	9.9	119,500	10.6	138,700	11.7	155,400	12.5
Saskatchewan	93,200	9.5	105,300	10.5	124,800	12.4	142,400	13.9
Alberta	118,200	4.7	137,500	4.9	171,300	5.4	203,300	5.8
British Columbia	120,700	3.7	135,500	3.6	161,900	3.6	186,900	3.6
Yukon	5,100	18.4	6,300	18.2	7,800	20.0	8,900	21.7
Northwest Territories	36,200	63.0	41,200	62.0	49,700	62.4	58,700	62.4
Total	**720,600**	**2.7**	**811,400**	**2.7**	**959,000**	**2.8**	**1,093,400**	**2.9**

Note: All population counts are rounded to the nearest hundred.

Source: M.J. Norris, D. Kerr and F. Nault, "Projections of the Aboriginal Identity Population in Canada, 1991-2016", research study prepared for RCAP (1995).

dren was born and survived. This boom continued for several years after the general post-war baby boom and for different reasons. Nevertheless, the demographic and societal effects of this large generation of Aboriginal children are being felt and will continue to be felt for many years to come.

Using the adjusted APS data, the Aboriginal identity population is expected to grow from an estimated 720,000 in 1991 and a projected 811,000 in 1996 to just over 1,000,000 in the year 2016 under a low- and medium-growth model, or possibly to 1,200,000 under a high-growth model.[22] The Commission selected a medium-growth model as its preferred projection (Figure 2.4), since it is based on recent trends in fertility, mortality and net internal migration patterns.[23]

Accordingly, the North American Indian population registered under the *Indian Act* is expected to increase from the 1991 figure of 438,000 to 665,600 by 2016; the non-status North American Indian population from 112,600 to 178,400; the Métis population from 139,400 to 199,400; and the number of Inuit from 37,800 to 60,300. Regionally, the share of Aboriginal people is not expected to shift dramatically from the distribution in 1991 (Table 2.5). The minor shifts are attributable mostly to differences in regional fertility rates, which tend to be higher in Manitoba and Saskatchewan and lower in the east and remaining western provinces. A significant increase is predicted in the Aboriginal share of the population in some provinces. In Saskatchewan, for example, the proportion of the provincial population that is Aboriginal in origin is expected to increase from 9.5 per cent in 1991 to 13.9 per cent in the year 2016 according to our projections (Table 2.5). The share of the Saskatchewan population made up of Aboriginal persons under 25 years of age is projected to be 20.5 per cent by the year 2016.

Further detail about the Commission's projections of the Aboriginal population, including information about the changing age and sex composition and its implications for issues such as dependency rates, employment, housing, and income support, is found in Volumes 2 and 3 of the Commission's report.

It is clear that, despite declining fertility rates, Aboriginal people will be a continuing presence in Canadian society; indeed, their population share is projected to increase. Demographic projections thus reinforce the assertion of Aboriginal people that they will continue as distinct peoples whose presence requires a renewed relationship with the rest of Canadian society.

Notes

1. Olive P. Dickason, *Canada's First Nations: A History of Founding Peoples from Earliest Times* (Toronto: McClelland & Stewart Inc., 1992), pp. 25, 34, 28.

2. J. Mooney, "The Aboriginal Population of America North of Mexico", in *Smithsonian Miscellaneous Collections* 80/7 (1928), pp. 1-40.

3. R. Thornton, *American Indian Holocaust and Survival: A Population History Since 1492* (Norman, Oklahoma: University of Oklahoma Press, 1987), p. 32.

4. Dickason, *Canada's First Nations* (cited in note 1), pp. 26-27.

5. Dickason, *Canada's First Nations*, p. 63. See also Margaret Conrad, Alvin Finkel and Cornelius Jaenen, *History of the Canadian Peoples: Beginnings to 1867*, volume 1 (Toronto: Copp Clark Pitman Ltd., 1993), p. 12.

6. Recent writings place particular emphasis on disease as the major factor decimating indigenous populations. See, for example, Georges E. Sioui, *Pour une auto-histoire amérindienne* (Quebec City: Presses de l'Université Laval, 1989), also published as *For An Amerindian Autohistory* (Montreal and Kingston: McGill-Queen's University Press, 1992); and Ronald Wright, *Stolen Continents: The New World Through Indian Eyes Since 1492* (New York: Viking Penguin, 1992).

7. There is some evidence that the population *not identifying* with their Aboriginal roots demonstrate socio-economic characteristics quite similar to those of Canadians as a whole, while those who do identify as Aboriginal have quite different socio-economic characteristics. Recent testing of questions for the 1996 census revealed that when an Aboriginal identity question was asked, the resulting count was within 2 per cent of the 1991 APS count, providing further evidence that the identity-based count may be a more appropriate count for examining Aboriginal conditions.

8. No data collection vehicle is perfect. With regard to the Aboriginal Peoples Survey, there was undercoverage. First, a number of reserves and settlements were enumerated incompletely for a variety of reasons, including some band councils' refusal to admit survey takers to reserves. Second, the survey was not able to enumerate all the Aboriginal populations living on reserves that *did participate* in the survey or in non-reserve areas. Approximately 220 reserves and settlements were enumerated incompletely in the 1991 census and APS combined. This represented an estimated missed population of 53,000 or 23 per cent of the on-reserve population. Some of the undercoverage issues in the APS were inherited from the 1991 census. The APS drew its sample of Aboriginal respondents from the 1991 census forms. Any undercoverage problems in the census were passed along to the APS. Statistics Canada has estimated the extent of this undercoverage and taken it into account in establishing a 1991 base year population for the projection period (1991-2016). A full description of this adjustment for undercoverage appears in the report prepared for RCAP: Mary Jane Norris, Don Kerr and François Nault, "Projections of the Aboriginal Identity Population in Canada, 1991-2016", prepared by Statistics Canada (Population Projections Section, Demography Division) for RCAP (February 1995). (For information about research studies prepared for RCAP, see *A Note About Sources* at the beginning of this volume.)

Taking into account the three types of population undercoverage in the APS shifts the published unadjusted count in 1991 from 626,000 to an adjusted 720,000. Other results of this adjustment include, for example, an increase in the percentage of the total Aboriginal population living on reserves and settlements,

from 29 per cent (unadjusted) to 35 per cent (adjusted), and the share of total Aboriginal population living in non-reserve urban areas falls from 49 per cent (unadjusted) to 44 per cent (adjusted).

To avoid confusion, tables and charts specify whether adjusted or unadjusted population data are being used. The general rule is that we use the adjusted 1991 base year population when presenting results of the population projections from 1991 to 2016. In most other cases unadjusted data are used, particularly in examining socio-economic conditions. Where other sources of data on Aboriginal people are used in this report, they are identified.

There is much debate about the population of the various Aboriginal peoples. The debate is largely a function of the limited number of data sources and collection systems for basic demographic information. Even where sources or systems exist, the possibility of obtaining valid counts is limited by the way Aboriginal groups are defined for data collection purposes; this in turn tends to be determined by the legislation or government programs for which information is being gathered.

9. This projection is based on the extension of recent trends in birth, death and migration rates among Aboriginal groups before 1991. A full description is found in Norris et al. (cited in note 8). The population count for each Aboriginal group shown in Table 2.1 contains a small number of persons who reported multiple Aboriginal identities in the APS on which the projections are based (e.g., those who reported identifying as both North American Indian and Métis). Therefore, the counts shown in Table 2.1 do not add to the total Aboriginal count of 811,400, a figure that does not contain double counting. The source for the total population is Statistics Canada, "Projection No. 2: Projected Population by Age and Sex, Canada, Provinces and Territories, July 1, 1996", unpublished tables.

10. The Indian register, a population register maintained by the federal department of Indian affairs and northern development (DIAND), has a count of 511,000 registered Indians in 1991. For the sake of consistency, however, the Commission relies primarily on the adjusted population counts derived from the 1991 APS. The population of 438,000 includes only those who reported North American Indian identity in the 1991 APS and excludes persons who are Métis and Inuit by identity, but who had Indian status under the *Indian Act*. Since the Commission's major focus is the cultural identity of Aboriginal peoples, these two groups have been included in their respective identity groups, rather than in the registered North American Indian count. This reduces the amount of double counting among the groups. Also excluded from the 1991 APS (and therefore from projections based on it) is the Aboriginal population residing in institutions, such as prisons or chronic care institutions, and Aboriginal persons with Indian status who were living outside Canada at the time of the survey. These factors (although not exhaustive) account for about 45 per cent of the difference between the Indian register count and the APS adjusted count.

11. The Commission divided Canada into three zones for analytical purposes. The Far North consists of the Yukon, Northwest Territories, northern Quebec (using the Census Division #99) and Labrador (Census Division #10). The Mid-North

consists of the northern portions of British Columbia, Alberta, Saskatchewan, Manitoba and Ontario, and a zone in Quebec consisting of Abitibi-Témiscamingue in the west to the North Shore in the east. The South consists of the remainder of the provinces not included in the two northern zones and all of Prince Edward Island, Nova Scotia, New Brunswick, and the island of Newfoundland. See Volume 4, Chapter 6, for further discussion of these divisions.

12. It is not known with any accuracy how many North American Indians who are *not* registered under the *Indian Act* (i.e., non-status Indians) affiliate with one of the linguistic groups listed in Table 2.3.

13. Children are not entitled to status if one parent is classified as a 'section 6(2) Indian' (under the amended *Indian Act*) and the other parent does not have Indian status. For a more detailed discussion of the impact of Bill C-31, see Chapter 9 in this volume.

14. S. Clatworthy and A.H. Smith, *Population Implications of the 1985 Amendments to the Indian Act* (Ottawa: Assembly of First Nations, 1992).

15. An extensive discussion of historical counts of Aboriginal populations in what is now Canada appears in the introduction to a government publication entitled *Censuses of Canada, 1665 to 1871*, Statistics of Canada, volume IV (Ottawa: Queen's Printer, 1876), pp. xiv-lxxv. Various references are made to 'halfbreeds', but without definition. The term Métis is used in the French version of the publication, however. Counts of 'halfbreeds' appear to be included with counts of non-Aboriginal people and not shown separately. Nevertheless, it is an explicit acknowledgement of a population with mixed Aboriginal and non-Aboriginal origins. The province of Manitoba undertook a census of its "half-breed inhabitants" in November 1870 and reported a figure of 9,800 persons (34 Victoria Sessional Papers (20), pp. 74-96).

16. Not everyone who identified as 'halfbreed' would necessarily consider themselves Métis.

17. G. Goldmann, "The Aboriginal Population and the Census, 120 Years of Information – 1871 to 1991", paper presented at the International Union of Scientific Studies in Population Conference, Montreal, September 1993, pp. 6, 7.

18. It should be noted that about 17,000 Métis persons are also registered under the *Indian Act*, although they still identified as Métis on the APS questionnaire. Nevertheless, for statistical purposes, the Commission has given precedence to reported Métis identity, as opposed to legal Indian status, and therefore the Métis count includes this registered population. Indian registration before 1985 was likely acquired through marriage to a status Indian male; the female spouse gained status, as did her offspring. Others and their children would have regained Indian status more recently as a result of reinstatement under Bill C-31. For whatever reasons, this group of 17,000 still chose to self-identify as Métis in the 1991 APS.

19. Inuit in Labrador were not counted in the 1921 census, because Newfoundland was not part of Canada until 1949.

20. Norris et al. (cited in note 8).

21. Fertility and mortality data on Aboriginal groups other than registered Indians are rather sparse.

22. Four projection scenarios were developed based on various assumptions about future trends in fertility, mortality and migration rates. These scenarios were applied to Aboriginal groups in various regions of Canada. For a detailed description see Norris et al. (cited in note 8).

23. Norris et al. (cited in note 8).

24. The starting point for Table 2.3 was information provided by Statistics Canada, which has assigned bands or First Nations to broader linguistic/cultural groups, mainly on the basis of their linguistic and cultural affiliation. For details on this methodology, see Statistics Canada, "1991 Census List of Indian Bands/First Nations by Indian Nations", Social Statistics Division, unpublished table and related methodological notes.

    The number of registered Indians belonging to each band or First Nation and each linguistic/cultural group was calculated, based on data in *Indian Register Population by Sex and Residence, 1991* (Ottawa: Indian and Northern Affairs Canada, March 1992).

    Since the Commission prefers to use the Aboriginal identity population derived from the 1991 APS rather than the population derived from the Indian Register, we estimated the size of the status identity population belonging to each linguistic/cultural group by calculating the percentage of the total registered Indian population accounted for by each linguistic/cultural group, then applying that percentage to the APS adjusted status Indian identity population. For example, if a particular linguistic/cultural group made up 5 per cent of the registered Indian population, then 5 per cent of the total status identity population was taken as the size of that linguistic/cultural group as reported in Table 2.3.

    The size of the identity population is derived from Norris et al. (cited in note 8).

    The Commission made some changes in the grouping of bands or First Nations into linguistic/cultural groups, based on information supplied by the Canadian Museum of Civilization, in order to show the groups that make up the Dene Nation and the Iroquois Confederacy.

    The Commission recognizes that individual First Nations may not necessarily group themselves into these linguistic/cultural categories and that such affiliations continue to evolve. Other forms of affiliation beyond the band or community level are based on criteria such as common treaty affiliation or political groupings in the form of tribal councils or province-wide political organizations.

PART ONE

The Relationship in Historical Perspective

3

Conceptions of History

Of the 16 specific points in the Commission's terms of reference (see Appendix A), the first was the instruction to investigate and make concrete recommendations on "the history of relations between Aboriginal peoples, the Canadian government and Canadian society as a whole."

Indeed, it is impossible to make sense of the issues that trouble the relationship today without a clear understanding of the past. This is true whether we speak of the nature of Aboriginal self-government in the Canadian federation, the renewal of treaty relationships, the challenge of revitalizing Aboriginal cultural identities, or the sharing of lands and resources. We simply cannot understand the depth of these issues or make sense of the current debate without a solid grasp of the shared history of Aboriginal and non-Aboriginal people on this continent.

In this respect, the past is more than something to be recalled and debated intellectually. It has important contemporary and practical implications, because many of the attitudes, institutions and practices that took shape in the past significantly influence and constrain the present. This is most obvious when it comes to laws such as the *Indian Act*, but it is also evident in many of the assumptions that influence how contemporary institutions such as the educational, social services and justice systems function.

An examination of history also shows how the relationship between Aboriginal and non-Aboriginal Canadians has assumed different shapes at different times in response to changing circumstances. In fact, it is possible to identify different stages in the relationship and to see the different characteristics of each. This allows us to reflect more deeply on the factors that have contributed to a relationship that has been more mutually beneficial and harmonious in some periods than in others. It also permits us to understand how the relationship has

come to serve the interests of one party at the expense of the other with the passage of time.

Commissioners have had an unparalleled opportunity to hear from Aboriginal and non-Aboriginal people all across Canada. All Commissioners – those new to the study of these issues and those whose professional lives have been devoted to grappling with them – learned a great deal from the experience and were moved by what they learned. One of the clearest messages that emerged is the importance of understanding the historical background to contemporary issues. Commissioners believe it is vital that Canadians appreciate the depth and richness of this history as well as its sometimes tragic elements.

But Commissioners also concluded that most Canadians are simply unaware of the history of the Aboriginal presence in what is now Canada and that there is little understanding of the origins and evolution of the relationship between Aboriginal and non-Aboriginal people that have led us to the present moment. Lack of historical awareness has been combined with a lack of understanding on the part of most Canadians of the substantial cultural differences that still exist between Aboriginal and non-Aboriginal people. Together these factors have created fissures in relations between the original inhabitants of North America and generations of newcomers. They impede restoration of the balanced and respectful relationship that is the key to correcting our understanding of our shared past and moving forward together into the future.

1. Aboriginal and Non-Aboriginal Approaches to History

Rendering accurately the history of a cross-cultural relationship is not simple or straightforward. History is an not an exact science. Past events have been recorded and interpreted by human beings who, much like ourselves, have understood them through the filter of their own values, perceptions and general philosophies of life and society. As with all histories, therefore, it is clear that how an event or a series of events is chronicled over time is shaped by the perceptions of the historian. Even among historians of the same period and cultural outlook, substantial differences of interpretation may exist. Consider how much greater such differences in interpretation must be when it comes to perspectives rooted in radically different cultural traditions.

Important differences derive from the methodology of history – how the past is examined, recorded and communicated. The non-Aboriginal historical tradition in Canada is rooted in western scientific methodology and emphasizes scholarly documentation and written records.[1] It seeks objectivity and assumes that persons recording or interpreting events attempt to escape the limitations of their own philosophies, cultures and outlooks.

In the non-Aboriginal tradition, at least until recently, the purpose of historical study has often been the analysis of particular events in an effort to establish what 'really' happened as a matter of objective historical truth or, more modestly, to marshal facts in support of a particular interpretation of past events.

While interpretations may vary with the historian, the goal has been to come up with an account that best describes all the events under study. Moreover, underlying the western humanist intellectual tradition in the writing of history is a focus on human beings as the centrepiece of history, including the notion of the march of progress and the inevitability of societal evolution. This historical tradition is also secular and distinguishes what is scientific from what is religious or spiritual, on the assumption that these are two different and separable aspects of the human experience.

The Aboriginal tradition in the recording of history is neither linear nor steeped in the same notions of social progress and evolution. Nor is it usually human-centred in the same way as the western scientific tradition, for it does not assume that human beings are anything more than one – and not necessarily the most important – element of the natural order of the universe. Moreover, the Aboriginal historical tradition is an oral one, involving legends, stories and accounts handed down through the generations in oral form. It is less focused on establishing objective truth and assumes that the teller of the story is so much a part of the event being described that it would be arrogant to presume to classify or categorize the event exactly or for all time.

In the Aboriginal tradition the purpose of repeating oral accounts from the past is broader than the role of written history in western societies. It may be to educate the listener, to communicate aspects of culture, to socialize people into a cultural tradition, or to validate the claims of a particular family to authority and prestige.[2] Those who hear the oral accounts draw their own conclusions from what they have heard, and they do so in the particular context (time, place and situation) of the telling. Thus the meaning to be drawn from an oral account depends on who is telling it, the circumstances in which the account is told, and the interpretation the listener gives to what has been heard.

Oral accounts of the past include a good deal of subjective experience. They are not simply a detached recounting of factual events but, rather, are "facts enmeshed in the stories of a lifetime".[3] They are also likely to be rooted in particular locations, making reference to particular families and communities. This contributes to a sense that there are many histories, each characterized in part by how a people see themselves, how they define their identity in relation to their environment, and how they express their uniqueness as a people.

Unlike the western scientific tradition, which creates a sense of distance in time between the listener or reader and the events being described, the tendency of Aboriginal perspectives is to create a sense of immediacy by encouraging listeners to imagine that they are participating in the past event being recounted.

Ideas about how the universe was created offer a particularly compelling example of differences in approach to interpreting the past. In the western intellectual tradition, the origin of the world, whether in an act of creation or a cosmic big bang, is something that occurred once and for all in a far distant past remote from the present except in a religious or scientific sense. In Aboriginal historical traditions, the particular creation story of each people, although it finds its origins in the past, also, and more importantly, speaks to the present. It invites listeners to participate in the cycle of creation through their understanding that, as parts of a world that is born, dies and is reborn in the observable cycle of days and seasons, they too are part of a natural order, members of a distinct people who share in that order.

As the example of creation stories has begun to suggest, conceptions of history or visions of the future can be expressed in different ways, which in turn involve different ways of representing time. The first portrays time as an arrow moving from the past into the unknown future; this is a *linear* perspective. The second portrays time as a circle that returns on itself and repeats fundamental aspects of experience. This is a *cyclic* point of view.

As shown in Figure 3.1, from a linear perspective the historical relationship established between Aboriginal and non-Aboriginal people is a matter of the past. However regrettable some aspects of this relationship may have been, it is over and done with. The present relationship grows out of the past, however, and can be improved upon. So we look to the future to establish a *new* relationship, which will be more balanced and equitable.

From the second perspective, the relationship between Aboriginal and non-Aboriginal groups has moved through a cycle (Figure 3.2). At the high point of the cycle, we find the original relationship established in the early days of contact between Aboriginal peoples and newcomers, especially in the course of the fur trade. Despite some variations, this relationship often featured a rough-and-ready equality and involved a strong element of mutual respect. True, this respect sprang in part from a healthy regard for the military capacities of the other

FIGURE 3.1
A Linear Perspective on the Historical Relationship

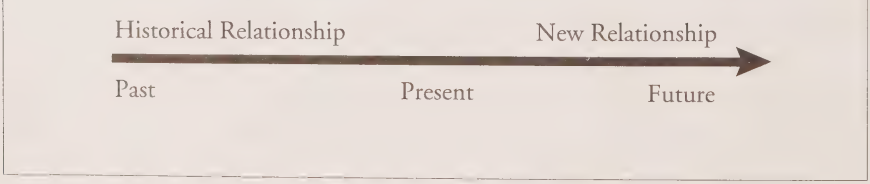
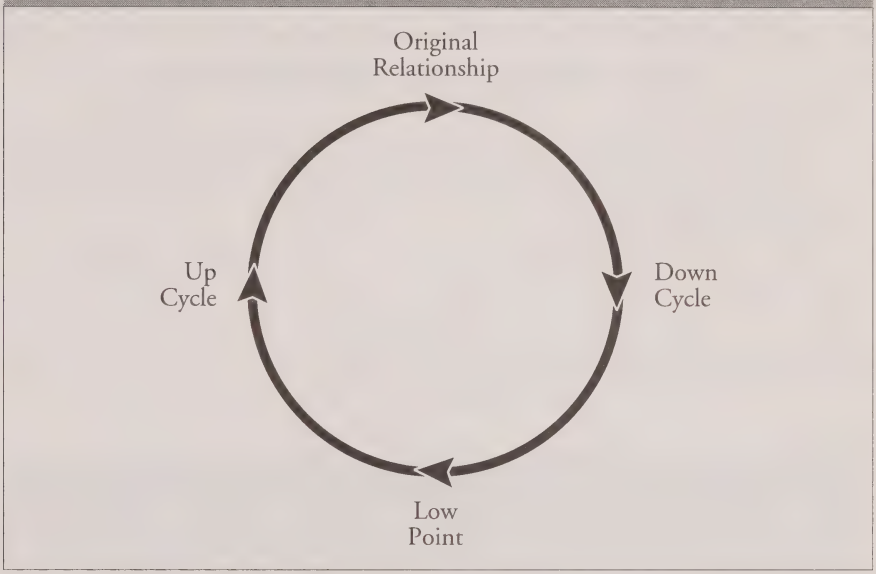


FIGURE 3.2
A Cyclic Perspective on the Historical Relationship



parties and from a pragmatic grasp of the advantages afforded by trade and co-operation. However, it also involved a guarded appreciation of the other's distinctive cultures and a recognition of certain underlying commonalities. From this beginning, there was a slow downturn, as the military strength of the Aboriginal parties gradually waned, as the fur trade dwindled in importance and as non-Aboriginal people increased dramatically in number. Having passed through the low point in the cycle, where adherence to the principles of equality and respect was almost negligible, there is now a slow upswing as efforts are made to *renew* the original relationship and to restore the balance that it represented.

Although it would be wrong to draw hard and fast distinctions in this area, we have found that many Aboriginal people tend to take a cyclic perspective, while the linear approach is more common in the larger Canadian society. Differences of this kind are important, not because they represent absolute distinctions between peoples – cultural worlds are too rich and complex for that – but because they serve to illustrate, however inadequately, that there are different ways of expressing ideas that, at a deeper level, may have much in common.

To summarize, the history of the relationship between Aboriginal and non-Aboriginal people is represented quite differently in the two cultures. The contrast between Aboriginal and non-Aboriginal historical traditions suggests different purposes for revisiting the past, different methodologies and different contents and forms. We have chosen to present an account of past events that

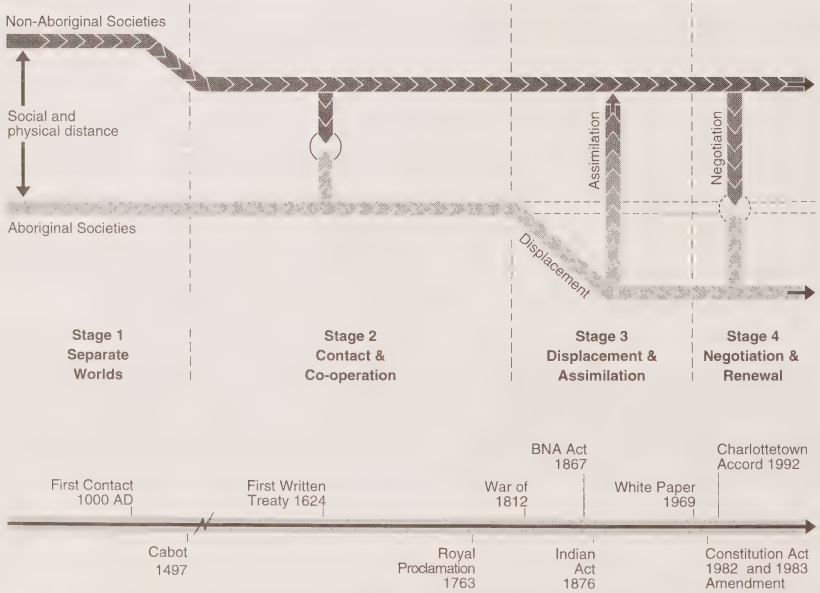
recognizes and accepts the legitimacy of the historical perspectives and traditions of both Aboriginal and non-Aboriginal peoples.[4] What follows is our best effort to be true to both historical traditions as well as to lay the groundwork for the rest of our report.

2. An Historical Framework

> Some of the old people...talk about the water...and it is really nice to hear them talk about the whole cycle of water, where it all starts and where it all ends up.
>
> Chief Albert Saddleman
> Okanagan Band
> Kelowna, British Columbia, 16 June 1993[5]

Aboriginal and non-Aboriginal people have had sustained contact in the part of North America that has become known as Canada for some 500 years, at least

FIGURE 3.3
Stages in the Relationship



Source: Adapted from Mark Dockstator, "Towards an Understanding of Aboriginal Self-Government: A Proposed Theoretical Model and Illustrative Factual Analysis", doctor of jurisprudence thesis, York University, North York, Ontario, June 1993.

in some areas. To summarize and interpret the nature of so complex, fluid and interdependent a relationship ("where it all starts and where it all ends up") is a formidable assignment. This is especially the case when one considers the sheer diversity in the nature of the relationship in different areas of the country, populated by different Aboriginal peoples and settled at different periods by people of diverse non-Aboriginal origins.

In the Atlantic region, for instance, a sustained non-Aboriginal presence among the Mi'kmaq and Maliseet peoples has been a fact for nearly 500 years, but in most parts of the far north, Inuit have been in sustained contact with non-Aboriginal people only in recent times. In Quebec and southern and central Ontario, the relationship is of almost the same duration as that in the Atlantic region, while in northern Ontario and the prairies, sustained contact and the development of formal treaty relationships has occurred only within the last 150 years. In parts of the Pacific coast, the nature of the relationship has yet to be formalized in treaties, even though interaction between Aboriginal and non-Aboriginal people has taken place for some 200 years.

In approaching the task of summarizing and interpreting the relationship between Aboriginal and non-Aboriginal people, the Commission has found it useful to divide its own account of the historical relationship into four stages, as illustrated in Figure 3.3 and as described in the next four chapters. The stages follow each other with some regularity, but they overlap and occur at different times in different regions.

2.1 Stage 1: Separate Worlds

In the period before 1500, Aboriginal and non-Aboriginal societies developed in isolation from each other. Differences in physical and social environments inevitably meant differences in culture and forms of social organization. On both sides of the Atlantic, however, national groups with long traditions of governing themselves emerged, organizing themselves into different social and political forms according to their traditions and the needs imposed by their environments.

In this first stage, the two societies – Aboriginal and non-Aboriginal – were physically separated by a wide ocean. From an Aboriginal philosophical perspective, the separation between the two distinct worlds could also be expressed as having been established by the acts of creation. Accordingly, the Creator gave each people its distinct place and role to perform in the harmonious operation of nature and in a manner and under circumstances appropriate to each people. Aboriginal creation stories are thus not only the repository of a people's distinct national history, but also an expression of the divine gift and caretaking responsibility given to each people by the Creator.

By the end of Stage 1 (see Chapter 4), the physical and cultural distance between Aboriginal and non-Aboriginal societies narrowed drastically as Europeans moved across the ocean and began to settle in North America.

2.2 Stage 2: Contact and Co-operation

The beginning of Stage 2 (see Chapter 5) was marked by increasingly regular contact between European and Aboriginal societies and by the need to establish the terms by which they would live together. It was a period when Aboriginal people provided assistance to the newcomers to help them survive in the unfamiliar environment; this stage also saw the establishment of trading and military alliances, as well as intermarriage and mutual cultural adaptation. This stage was also marked by incidents of conflict, by growth in the number of non-Aboriginal immigrants, and by the steep decline in Aboriginal populations following the ravages of diseases to which they had no natural immunity.

Although there were exceptions, there were many instances of mutual tolerance and respect during this long period. In these cases, social distance was maintained – that is, the social, cultural and political differences between the two societies were respected by and large. Each was regarded as distinct and autonomous, left to govern its own internal affairs but co-operating in areas of mutual interest and, occasionally and increasingly, linked in various trading relationships and other forms of nation-to-nation alliances.

2.3 Stage 3: Displacement and Assimilation

In Stage 3 (see Chapter 6), non-Aboriginal society was for the most part no longer willing to respect the distinctiveness of Aboriginal societies. Non-Aboriginal society made repeated attempts to recast Aboriginal people and their distinct forms of social organization so they would conform to the expectations of what had become the mainstream. In this period, interventions in Aboriginal societies reached their peak, taking the form of relocations, residential schools, the outlawing of Aboriginal cultural practices, and various other interventionist measures of the type found in the Indian Acts of the late 1800s and early 1900s.

These interventions did not succeed in undermining Aboriginal social values or their sense of distinctiveness, however. Neither did they change the determination of Aboriginal societies to conduct their relations with the dominant society in the manner Aboriginal people considered desirable and appropriate, in line with the parameters established in the initial contact period. (Hence the continuation of the horizontal line in dotted form in Figure 3.3.)

Non-Aboriginal society began to recognize the failure of these policies toward the end of this period, particularly after the federal government's ill-fated 1969 white paper, which would have ended the special constitutional, legal and political status of Aboriginal peoples within Confederation.

2.4 Stage 4: Negotiation and Renewal

This stage in the relationship between Aboriginal and non-Aboriginal societies, which takes us to the present day, is characterized by non-Aboriginal society's

admission of the manifest failure of its interventionist and assimilationist approach. This acknowledgement is pushed by domestic and also by international forces. Campaigns by national Aboriginal social and political organizations, court decisions on Aboriginal rights, sympathetic public opinion, developments in international law, and the worldwide political mobilization of Indigenous peoples under the auspices of the United Nations have all played a role during this stage in the relationship.

As a result, non-Aboriginal society is haltingly beginning the search for change in the relationship. A period of dialogue, consultation and negotiation ensues, in which a range of options, centring on the concept of full Aboriginal self-government and restoration of the original partnership of the contact and co-operation period, is considered. From the perspective of Aboriginal groups, the primary objective is to gain more control over their own affairs by reducing unilateral interventions by non-Aboriginal society and regaining a relationship of mutual recognition and respect for differences. However, Aboriginal people also appear to realize that, at the same time, they must take steps to re-establish their own societies and to heal wounds caused by the many years of dominance by non-Aboriginal people.

It is clear that any attempt to reduce so long and complex a history of interrelationship into four stages is necessarily a simplification of reality. It is as though we have taken many different river systems, each in a different part of the country, each viewed from many different vantages, and tried to channel them into one stream of characteristics that would be most typical of the river as it has flowed through Canada.

We have attempted to retain a sense of the diversity of the historical experience by presenting numerous snapshots or slices of history. Instead of providing a linear, chronological overview, we have chosen particular societies, particular events or particular turning points in history to illustrate each of the stages and to give the flavour of the historical experience in at least some of its complexity.

It is difficult to place each stage within a precise timeframe. In part this is because of the considerable overlap between the stages. They flow easily and almost indiscernibly into each other, with the transition from one to the other becoming apparent only after the next stage is fully under way. Nor is the time frame for each period the same in all parts of the country; Aboriginal groups in eastern and central Canada generally experienced contact with non-Aboriginal societies earlier than groups in more northern or western locations.

Although reasonable people may legitimately differ on the exact point at which one stage ends and another begins, for descriptive purposes we have chosen the following dates on the basis of important demographic, policy, legislative and other markers that help divide the stages from each other. We would therefore end Stage 1 at around the year 1500, because sustained contact between Aboriginal and non-Aboriginal peoples took place shortly after that date, at least

in the east. The period of contact and co-operation comes to a conclusion in the Maritimes by the 1780s, in Ontario by 1830 and British Columbia by 1870.

We suggest that the period of displacement and assimilation, the third stage, was concluded by the federal government's 1969 white paper. The reaction it provoked and the influence of certain court decisions shortly thereafter clearly marked the beginning of the negotiation and renewal phase.

What follows is an elaboration of events, experiences and perceptions that characterize each of the four stages of the relationship and that form the backdrop to our present situation.

Notes

1. We use the term western to refer to the traditions of Europe and societies of European origin.

2. Julie Cruikshank, "Oral Tradition and Oral History: Reviewing Some Issues", *The Canadian Historical Review* LXXV/3 (1994), pp. 403-418.

3. Cruikshank, p. 408.

4. Oral history, linguistic analysis, documentary records and archaeological sources for the study of Aboriginal history are now regarded as complementary, with one source filling gaps in another source and thereby providing a more complete picture.

   Ethnography, which gathers information about culture from living informants, and history, which has usually relied on written sources, have come together to generate the subdiscipline of ethnohistory.

   The technique of 'upstreaming', used in ethnohistory, takes accounts from living informants and applies them in interpreting historical records. For example, a secretary at a treaty council might have recorded that "the three bare words of requickening" were performed at the beginning of the meeting. From ethnographic accounts we know that this is part of an Iroquois ceremonial sequence that affirms certain roles and responsibilities between the two sides participating in the ritual. We therefore have a perception of this historical event and of the relationship between the parties that we might not have been able to derive from the written record alone.

   Similarly, historical records of a fragmentary nature may fit with and confirm oral accounts of events and relations between Aboriginal nations and colonists.

   Oral and documentary sources are often found to complement and confirm each other, giving weight in recent historical work to oral histories. However, when oral accounts are not substantiated by documentary records, they are much more likely to be challenged or dismissed in a culture that relies heavily on the written word. If oral accounts contradict the written record, the latter document is likely to be considered authoritative.

   Commissioners are aware that colonists making documentary records and Aboriginal historians transmitting oral accounts often perceived events from very

different perspectives and conceived of very different purposes for the records they preserved and passed on. We reject the position that written documents of colonial society are, by definition, more reliable than oral accounts by Aboriginal historians.

As we noted in our report on the High Arctic relocation, in treating the oral tradition with respect,

> The object is not to seek validation of the oral history in the written record. Rather, the first step is to ask whether the information...tells a substantially consistent story – taking account of the different perspectives – or whether there is substantial conflict. This involves asking, for example, whether the oral history...reflects what is found in the documentary record. It involves asking how the oral history might help us understand and interpret the documentary record. It involves understanding the broader cultural and institutional contexts from which the oral history and the documentary record come. (Royal Commission on Aboriginal Peoples, *The High Arctic Relocation: A Report on the 1953-55 Relocation* [Ottawa: Supply and Services, 1994], p. 2.)

Where different accounts and interpretations are held out by proponents of different cultures, on the basis of oral as opposed to documentary sources, we propose that peaceful coexistence of divergent histories is preferable to a contest over which history will prevail. Where differences in historical interpretation result in contemporary conflict of interest, we propose that the differences be resolved by mutually respectful negotiation.

For a fuller discussion of the emergence of ethnohistory and the legitimacy of upstreaming, see Anthony F.C. Wallace, "Overview: The Career of William N. Fenton and the Development of Iroquoian Studies", p. 11 and following; and Bruce G. Trigger, "Indian and White History: Two Worlds or One?", pp. 17-33, in *Extending the Rafters: Interdisciplinary Approaches to Iroquoian Studies*, ed. Michael K. Foster, Jack Campisi and Marianne Mithun (Albany: State University of New York Press, 1984).

5. Transcripts of the Commission's hearings are cited with the speaker's name and affiliation, if any, and the location and date of the hearing. See *A Note About Sources* at the beginning of this volume for information about transcripts and other Commission publications.

4

Stage One: Separate Worlds

The history of the relationship between Aboriginal and non-Aboriginal peoples in North America begins, of necessity, with a description of the period before contact. Aboriginal nations were then fully independent; as described by the Supreme Court of Canada, they were "organized in societies and occupying the land as their forefathers had done for centuries."[1]

Europeans arriving in North America attempted to justify their assumption of political sovereignty over Aboriginal nations and title to their lands on the basis of a re-interpretation of prevailing norms in international law at the time, in particular the doctrine of discovery. This doctrine is based on the notion of *terra nullius* – a Latin term that refers to empty, essentially barren and uninhabited land. Under norms of international law at the time of contact, the discovery of such land gave the discovering nation immediate sovereignty and all rights and title to it.

Over the course of time, however, the concept of *terra nullius* was extended by European lawyers and philosophers to include lands that were not in the possession of 'civilized' peoples or were not being put to a proper 'civilized' use according to European definitions of the term. The following passage from the sermon of a Puritan preacher in New England in 1609 captures the essence of this re-interpretation of the idea of land empty of civilized human habitation:

> Some affirm, and it is likely to be true, that these savages have no particular property in any part or parcel of that country, but only a general residency there, as wild beasts in the forest; for they range and wander up and down the country without any law or government, being led only by their own lusts and sensuality. There is not *meum* and *teum* [mine and thine] amongst them. So that if the whole land

> should be taken from them, there is not a man that can complain of any particular wrong done unto him.[2]

Upon the 'discovery' of the North American continent by Europeans, according to this doctrine, the newcomers were immediately vested with full sovereign ownership of the discovered lands and everything on them. When faced with the fact that the lands were inhabited by Aboriginal peoples, European commentators, such as the preacher Gray, popularized the notion that Aboriginal peoples were merely in possession of such lands, since they could not possibly have the civilized and Christian attributes that would enable them to assert sovereign ownership to them. Over time these ethnocentric notions gained currency and were given legitimacy by certain court decisions. The argument made by the attorney general of Ontario in *St. Catharines Milling and Lumber Co.* v. *the Queen*, for example, is part of this tradition:

> To maintain their position the appellants must assume that the Indians have a regular form of government, whereas nothing is more clear than that they have no government and no organization, and cannot be regarded as a nation capable of holding lands. ...
>
> It is a rule of the common law that property is the creature of the law and only continues to exist while the law that creates and regulates it subsists. The Indians had no rules or regulations which could be considered laws.[3]

Despite evidence to the contrary, the argument that Aboriginal people merely roamed over the land and were not in the habit of cultivating the soil, as was the practice in Europe, was picked up and developed in the latter part of the seventeenth century by the English philosopher John Locke. His writings were highly influential in legitimizing in the minds of non-Aboriginal politicians and lawyers the almost complete takeover of Aboriginal lands by Europeans. As summarized by James Tully, professor of philosophy at McGill University, Locke began with the idea that Aboriginal peoples were in a pre-political state of nature – the first stage in a process of historical development through which all societies go:

> In the first age there is no established system of property or government and their economic activity is subsistence hunting and gathering. In contrast, the European civilized age is characterized by established legal systems of property, political societies and commercial or market-oriented agriculture and industry. This first set of contrasts makes up the background assumption of the 'stages view' of historical development which tends to be taken for granted in political (and economic) theory down to this day.

> Second, the Aboriginal people of America, possessing neither government nor property in their hunting and gathering territories, have property rights only in the products of their labour: the fruit and nuts they gather, the fish they catch, the deer they hunt and the corn they pick. Unlike citizens in political societies, anyone in a state of nature is free to appropriate land without the consent of others, as long as the land is uncultivated...[4] Illustrating his theory throughout with examples drawn from America, Locke draws the immensely influential conclusion that Europeans are free to settle and acquire property rights to vacant land in America by agricultural cultivation without the consent of the Aboriginal people...
>
> Whereas the second set of arguments justifies appropriation by alleging that the Aboriginal people have no rights in the land, the third set of arguments justifies the appropriation by claiming that the Aboriginal people are better off as a result of the establishment of the commercial system of private property in the land. Locke claims that a system of European commerce based on the motive to acquire more than one needs, satisfied by surplus production for profit on the market, is economically superior to the American Indian system of hunting and gathering, based on fixed needs and subsistence production, in three crucial respects: it uses the land more productively, it produces a greater quantity of conveniences, and it produces far greater opportunities to work and labour by expanding the division of labour.[5]

These kinds of arguments, which distorted the reality of the situation and converted *differences* into *inferiorities*, have had surprising longevity in policy documents and in court proceedings up to the present day. As modified by the courts, they are at the heart of the modern doctrine of Aboriginal title, which holds that Aboriginal peoples in North America do not 'own' their lands, although they now have the legal right in Canada to demand compensation if they are dispossessed of them by the authorities.

Not all courts have endorsed without reservation the self-serving notions created to justify the dispossession of Aboriginal peoples from their lands and the denial of their inherent sovereignty. This was particularly so, for example, in the later judgements of Chief Justice Marshall of the Supreme Court of the United States, such as that in *Worcester* v. *Georgia* in 1832:[6]

> America, separated from Europe by a wide ocean, was inhabited by a distinct people, divided into separate nations, independent of each other and the rest of the world, having institutions of their own, and governing themselves by their own laws. It is difficult to comprehend the proposition, that the inhabitants of either quarter of the globe

> could have rightful original claims of dominion over the inhabitants of the other, or over the lands they occupied; or that the discovery of either by the other should give the discoverer rights in the country discovered which annulled the pre-existing rights of its ancient possessors.[7]

Centuries of separate development in the Americas and Europe led to Aboriginal belief systems, cultures and forms of social organization that differed substantially from European patterns. Although this is generally accepted now, there is often less recognition of the fact that there was considerable diversity among Aboriginal nations as well. They were as different from each other as the European countries were from each other. Moreover, they often still are. Thus, the use of a term such as Aboriginal obscures real differences among the various indigenous nations. It was not only differences between Aboriginal and non-Aboriginal peoples that shaped relations between them in the post-contact period; it was also differences among Aboriginal nations, and among European societies.

These differences remain important to the present day. They are not the dead artifacts of history, of value only to those who choose to study the past. Rather, they speak to the origins of cultural patterns that find (or seek to find) expression in contemporary times, in contemporary forms. These differences are at the heart of the present struggle of Aboriginal peoples to reclaim possession not only of their traditional lands, but also of their traditional cultures and forms of political organization.

To respect the diversity among Aboriginal nations, we have chosen to illustrate certain distinctive patterns of culture and social organization by selecting five particular instances from different geographic regions. The first account deals with the Mi'kmaq of the east, the people of the dawn. This is followed by descriptions of the distinctive forms of social and political organization among the Iroquois and the Blackfoot. For the discussion of Pacific peoples, our emphasis is on social customs and economic relationships among the nations of the northwest coast. For the North, we have chosen to highlight innovation among Inuit.

1. People of the Dawn: The Mi'kmaq

Like other Aboriginal nations, the Mi'kmaq of the present day look back to their roots, seeking to understand from their oral traditions where they came from and how their culture and forms of social organization developed.

The word Mi'kmaq means the people who lived farthest east; hence they are often referred to as the people of the dawn. It is appropriate, therefore, to begin this account with a Mi'kmaq creation story in which the power of the sun

plays a prominent role. It is one of several versions told in the region, and it outlines the relationship between the Creator, the people and the environment. The account continues with a description of forms of social organization and of other seminal events recorded in the Mi'kmaq oral tradition.

In the creation story (see box, next page), the traditional belief system of the Mi'kmaq accounts for the origins of the people and of the earth with all its life forms, providing a vivid image of the Great Council Fire giving out sparks that give life to human form.

The Mi'kmaq were taught that the spark of life in living things has three parts: a form that decays and disappears after death; a *mntu* or spark that travels after death to the lands of the souls; and the guardian spark or spirits that aid people during their earth walk. While the form is different, all mntu and guardian spirits are alike but of different forces. No human being possessed all the forces, nor could human beings control the forces of the stars, sun or moon, wind, water, rocks, plants and animals. Yet they belong to these forces, which are a source of awe and to which entreaties for assistance are often addressed.

Since all objects possess the sparks of life, every life form has to be given respect. Just as a human being has intelligence, so too does a plant, a river or an animal. Therefore, the people were taught that everything they see, touch or are aware of must be respected, and this respect requires a special consciousness that discourages carelessness about things. Thus, when people gather roots or leaves for medicines, they propitiate the soul of each plant by placing a small offering of tobacco at its base, believing that without the co-operation of the mntu, the mere form of the plant cannot work cures.

Mi'kmaq were taught that all form decays, but the mntu continues. Just as autumn folds into winter and winter transforms into spring, what was dead returns to life. The tree does not die; it grows up again where it falls. When a plant or animal is killed, its mntu goes into the ground with its blood; later it comes back and reincarnates from the ground.

Each person, too, whether male or female, elder or youth, has a unique gift or spark and a place in Mi'kmaq society. Each has a complementary role that enables communities to flourish in solidarity. Like every generation, each person must find his or her gifts, and each person also needs to have the cumulative knowledge and wisdom of previous generations to survive successfully in a changing environment. In this respect, oral accounts such as the creation story served not only to communicate a particular story, but also to give guidance to succeeding generations on the appropriate way to live – how to communicate with other life forms, how to hunt and fish and respect what is taken, and how to take medicines from the earth. Stories that feature visions and dreams help to communicate lessons learned from the past.

Internal peace was maintained among the families by dividing up the national territory into seven districts, each with a chief, and by acknowledging

A Mi'kmaq Creation Story

On the other side of the Path of the Spirits, in ancient times, *Kisúlk*, the Creator, made a decision. Kisúlk created the first born, *Niskam*, the Sun, to be brought across *Skïtékmujeouti* (the Milky Way) to light the earth. Also sent across the sky was a bolt of lightning that created *Sitqamúk*, the earth, and from the same bolt *Kluskap* was also created out of the dry earth. Kluskap lay on Sitqamúk, pointing by head, feed and hands to the Four Directions. Kluskap became a powerful teacher, a *kinap* and a *puoin*, whose gifts and allies were great.

In another bolt of lightning came the light of fire, and with it came the animals, the vegetation and the birds. These other life forms gradually gave Kluskap a human form. Kluskap rose from the earth and gave thanks to Kisúlk as he honoured the six directions: the sun, the earth, and then the east, south, west and north. The abilities within the human form made up the seventh direction.

Kluskap asked Kisúlk how he should live, and Kisúlk in response sent *Nukumi*, Kluskap's grandmother, to guide him in life. Created from a rock that was transformed into the body of an old woman through the power of Niskam, the Sun, Nukumi was an elder whose knowledge and wisdom were enfolded in the Mi'kmaq language.

Nukumi taught Kluskap to call upon *apistanéwj*, the marten, to speak to the guardian spirits for permission to consume other life forms to nourish human existence. Marten returned with their agreement, as well as with songs and rituals. Kluskap and his grandmother gave thanks to Kisúlk, to the Sun, to the Earth and to the Four Directions and then feasted. As they made their way to understand how they should live, Kluskap then met *Netawansum*, his nephew, whom Kisúlk had created in his human form from the rolling foam of the ocean that had swept upon the shores and clung to the sweetgrass. Netawansum had the understanding of the life and strength of the underwater realms and he brought gifts from this realm to Kluskap, including the ability to see far away. They again gave thanks and feasted on nuts from the trees.

family rights to certain hunting grounds and fishing waters. District and territory divisions depended on the size of the family and the abundance of game and fish. These families made up several small gatherings or councils. From each settlement of kinsmen and their dependents, or *wigamow*, the Holy Gathering, also known now as the Grand Council of the Mi'kmaq (*Santé Mawíomi)* was created. The Mawíomi, which continues into the present time, recognizes one or more

Finally they met *Nikanaptekewísqw*, Kluskap's mother, a woman whose power lay in her ability to tell about the cycles of life or the future. She was born from a leaf on a tree, descended from the power and strength of Niskam, the Sun, and made into human form to bring love, wisdom and the colours of the world. As part of the earth, she brought the strength and wisdom of the earth and an understanding of the means of maintaining harmony with the forces of nature.

They lived together for a long time, but one day Kluskap told his mother and nephew that he and his grandmother Nukumi were leaving them to go north. Leaving instructions with his mother, Kluskap told of the Great Council Fire that would send seven sparks, which would fly out of the fire and land on the ground, each as a man. Another seven sparks would fly out the other way and out of these seven sparks would arise seven women. Together they would form seven groups, or families, and these seven families should disperse in seven directions and then divide again into seven different groups.

Like the lightning bolts that created the earth and Kluskap, the sparks contained many gifts. The sparks gave life to human form; and in each human form was placed the prospect of continuity. Like Kluskap before them, when the people awoke naked and lost, they asked Kluskap how they should live. Kluskap taught them their lessons, and thus he is named "one who is speaking to you" or the Teacher-Creator.

Source: This segment is based on a story taken from the ancient teachings of Mi'kmaq elders. The ancient creation story was compiled by Kep'tin Stephen Augustine of Big Cove, New Brunswick. See *Introductory Guide to Micmac Words and Phrases*, compiled by Evan Thomas Pritchard, annotations by Stephen Augustine, observations by Albert Ward (Rexton, N.B.: Resonance Communications, 1991). Another version is recounted by Reverend D. MacPherson in *Souvenir of the Micmac Tercentenary Celebration* (St. Anne de Restigouche: Frères Mineurs Capucins, 1910).

kep'tinaq (captains; singular: *kep'tin*) to show the people the good path, to help them with gifts of knowledge and goods, and to sit with the whole Mawíomi as the government of all the Mi'kmaq. From among themselves, the kep'tinaq recognize a *jisaqamow* (grand chief) and *jikeptin* (grand captain), both to guide them and one to speak for them. From others of good spirit they choose advisers and speakers, including the *putu's*, and the leader of the warriors, or *smaknis*. When

the birds begin their migration south, *lnapskuk*, the symbolic wampum laws[8] of the Mi'kmaq alliances, are read and explained to the people.

At the annual meeting, the kep'tinaq and Mawíomi saw that each family had sufficient planting grounds for the summer, fishing stations for spring and autumn and hunting range for winter. Once assigned and managed for seven generations, these properties were inviolable. If disputes arose, they were arbitrated by the kep'tinaq individually or in council.

The Mi'kmaq were neither settled nor migratory. The environment of their birth has always been suited best to seasonal use so that, compatible with the rhythms of the earth, families were responsible for a hunting ground, a fishing river or waters and a planting home, and they travelled to other resources throughout the year. They lived within the beauty and cycles of their lands. Given this deep attachment to the land, it is not surprising that all natural features within the Mi'kmaq territory have ancient names in the Mi'kmaq language, names that bear witness to their continuous use and possession of them. The trees, the shore, the mist in the dark woods, the clearings were holy in their memory and experience, recalling not only their lives but also the lives of their ancestors since the world began. This sacred order was never seen as a commodity that could be sold; it could only be shared.

The Mawíomi maintained peace and continuity by sharing the history and experiences of the Mi'kmaq through the ceremonies and stories of ancient times and the reading of the wampum laws. The Mi'kmaq continue to honour and receive strength from the seven directions and the seven entities in their gatherings at the great council fires. The honour and feasting are rekindled in the great fire, symbolic of the Great Spirit Creator, the power of the sun, of the earth, and of the lightning that caused the creation of Kluskap. In honour of Nukumi's arrival, the rocks from which she came are heated and water is poured over them in the sweat lodge. Thanks are given for her arrival and for the rebirth of all nations. The burning of sweetgrass honours Netawansum's arrival as thanks is given to the Four Directions and above, and to the ground and to one's heart and soul. In honour of the mother's arrival, the leaf and the bark of a tree and the stems are placed in the carved stones of grandmother, and the *tamaqn* or pipe is smoked.

In these ceremonies and rituals lies the path to the knowledge and wisdom of the spirits of the ancestors.

2. Iroquoians and the Iroquois

The Iroquoian peoples encountered at the time of earliest contact with Europeans were made up of many nations speaking related languages and occupying neighbouring territories. They included the Cherokee Nation in what is now Tennessee,[9] the Tuscarora, Nottoway and Meherrin nations of North Carolina

The Vision of Three Crosses

At the beginning of the cycle of *Jenoo*, the ice age, *Nakúset's* spirit came to an elder in a dream. The elder was approached by a young man carrying three crosses. He offered the old man the crosses telling him that each cross had a purpose in the survival of the people and, if used accordingly, the people would benefit by them. One of the crosses would serve the people in times of conflict with nature and with others. Another of the crosses would grant them safety on their long voyages and new experiences. The last cross would serve them in deliberations of councils, to aid them in making proper decisions for future generations. When the elder awoke, he called the village council. The three crosses and their meaning were explained, and he drew the symbols of the vision. This knowledge was widely shared with the other families and as instructions were followed, the famine lifted.

Under the vision of the three crosses, the families allied in a nation of Cross-Bearers and adjusted to the hardships of the Jenoo. They survived enormous environmental changes by travelling to the southern and western doors. Their knowledge, language and culture were enriched by their travels, through which they met many other peoples. In addition, their understanding of the life forces and resources of the land and sea was expanded. The people continually reorganized themselves.

When the Jenoo retreated, they returned to the eastern door of the tundra by canoe, following the rivers and the herds of animals. Using the seeds they carried with them, they renewed the tundra with many different plants, and many generations since then have aided the tundra in transforming it into many different forests. They have watched the earth, rivers and oceans respond to the force of melting water. As harvesters of the land and experts in manufacturing hunting and fishing equipment, they developed lances, spears, spear throwers, bows and arrows, birchbark canoes and fishing stations.

When the people returned to the northern Atlantic coast and tundra, they lived in small families. Slowly these families grew into seven groups of the Nation of Cross-Bearers, and they became known as the people of the dawn, the keepers of the eastern door.

Source: This story is based on unpublished material prepared by Marie Battiste and J. Youngblood Henderson for the Mi'kmaq Grand Council and on material from Father Chrestien Le Clercq, *Nouvelle Relation de la Gaspésie* (Paris: 1691), chapter X. The French original and an English translation are found in William F. Ganong, trans. and ed., *New Relation of Gaspesia with the Customs and Religion of the Gaspesian Indians* (Toronto: The Champlain Society, 1910; reprinted New York: Greenwood Press, 1968).

and Virginia, the Five Nations and Conestoga of New York and Pennsylvania, and the Hurons of central Ontario. Other northern Iroquoian communities were the Wenro, Neutral, Erie and Tobacco nations in the lower Great Lakes area and the Laurentian Iroquois, who occupied substantial settlements at Hochelaga (Montreal) and Stadacona (Quebec City) at the time of Jacques Cartier's explorations in 1535.[10] The closeness and duration of relationships between these latter groups and other Iroquoian nations is not clear, because their languages, which would normally provide a means of tracing linkages and ancestry, disappeared with little or no documentation.[11]

At the time of contact, Iroquoian nations, besides having common language roots, shared a number of cultural features. They lived in semi-permanent villages that they moved every 10 to 20 years, building new homes and clearing fields for the cultivation of corn and other crops. They practised a mixed economy of hunting, fishing, and gathering plants, nuts and berries and, in some places, maple sap.

The Hurons and the Five (later Six) Nations, whose societies have been documented most extensively, belonged to clans identified with animal or bird totems, traced clan affiliation through the female line and were matrilocal. That is, the man joined the household of the woman he married. Extended families related to a senior woman shared a longhouse and included the elder woman's unmarried sons, her daughters and their husbands and children.

Longhouses were typically 15 to 40 metres in length and about five metres in width, constructed of upright poles, with cross poles at about three metres in height and rafters, also made of poles, creating an arched roof. The whole structure was covered with elm or ash bark, rough side out, flattened, dried and cut in the form of boards. Houses were subdivided at intervals of three or four metres, with one compartment on each side of a central passage-way. Entrances to the longhouse were located at each end, with an emblem of the clan featured at one entrance.

Two families would occupy each compartment and share a fire in the central passage. One longhouse might accommodate 10 to 20 families, and villages of 100 to 150 houses were common. The largest villages were estimated to house up to 3,000 persons. In earlier times the villages were surrounded by palisades for defence against attacks. Outside the palisades were the corn fields, often consisting of several hundred acres of cultivated land, subdivided into planting lots belonging to different families and bounded by uncultivated ridges.[12]

The Five Nations – Mohawk, Oneida, Onondaga, Cayuga and Seneca – were known by different names. They were collectively called Iroquois, the Iroquois League, the Iroquois Confederacy and, after the Tuscarora Nation was adopted into the Confederacy in 1715,[13] the Six Nations. Their name for themselves was, and continues to be, Haudenosaunee, people of the longhouse. The name derived from the instructions of the founder of the confederacy, who

declared that once they had concluded peace among the nations and had adopted a unifying good mind, they would live as one family with a longhouse that stretched from Mohawk territory in the east (the Mohawk River and Schoharie Creek just west of Albany, New York) to Seneca territory in the west (the Genesee River at Rochester, New York).[14]

The confederacy served not only to suppress conflict among its member nations but also to secure their territory from the intrusion of neighbouring nations. Their environment was rich in all the resources they needed to maintain themselves. They were therefore well positioned politically and economically, as well as geographically, to engage with colonists and colonial governments in trade and politics. In their struggle to gain control of trade and later lands, European powers competed for the allegiance of the Haudenosaunee through the seventeenth and much of the eighteenth century.[15] The pivotal role of the Haudenosaunee in colonial history[16] made them the objects of intense interest on the part of ethnologists and historians. Additionally, the resurgence of interest in their traditional forms of governance among the Iroquois themselves has awakened renewed interest in the origin, structure and effectiveness of this ancient confederacy.[17]

Just how ancient is a matter of contention. On the basis of archaeological and linguistic evidence and the examination of physical traits, scholars have debated whether the Iroquois culture emerged in northeastern North America or migrated from elsewhere. A number of scholars concur now that Iroquoian culture has existed and evolved continuously in the historical homeland just described for 4,000 to 6,000 years.[18] Although there is evidence of rapid and unexplained culture change between ancient times and the time of contact, some scholars argue that these are best explained by culture borrowing, via extensive trade networks and geographic shifts among neighbouring peoples, rather than by displacement of other culture groups by Iroquoian newcomers.[19]

Continuity can be established between the culture practised at excavated sites, dated around 500 BC, and the culture of the Haudenosaunee as encountered at the time of contact. There is evidence of the introduction of corn cultivation and a shift to a less mobile way of life between 500 and 800 AD. Artifacts at excavation sites and remains of houses indicate that by 1300 the longhouse was the standard dwelling, and the complementary social institutions were almost certainly in place or emerging. Significantly, there is evidence of violent death and cannibalism in this period as well.[20]

The Haudenosaunee have less concern than non-Aboriginal scholars with establishing a date for the origin of the confederacy. They state simply that the League of Peace was in place before the arrival of Europeans on the eastern seaboard. Since the Haudenosaunee maintain an oral ceremonial culture by choice, written versions of their traditions are at best approximations of the laws and protocols that give substance and cohesiveness to the confederacy.[21] To

provide a few glimpses of the workings of the confederacy we refer to historical and ethnographic accounts and to a presentation made to the Commission by a highly esteemed historian and ceremonialist, Jacob (Jake) Thomas, a chief of the Cayuga Nation.

According to oral tradition the Five Nations at one time were enmeshed in wars and blood feuds:

> This is what was happening at the time the Creator made mankind. He put us on earth to get along. He gave us love. He gave us respect, appreciation, generosity.... But for the longest time it didn't work. Maybe it worked for a while, but then people began to forget what they were instructed.... He instructed us, this is the way we should be, but we forget. Then we start things that we're not supposed to do on earth, go against one another....
>
> We also had cannibalism, cannibals, in those days. That's what I'm talking about. We never ever hide those stories, what happened in those days, so our children will learn how our people were way, way back.
>
> Chief Jacob (Jake) Thomas
> Cayuga Nation
> Akwesasne, Ontario, 3 May 1993[22]

In this period of conflict and bloodletting, a child was born to a Huron woman who lived with her mother on the north shore of Lake Ontario.[23] After many signs indicating his special character and mission, the Peacemaker[24] set out across Lake Ontario in a stone canoe to bring a message of peace to the warring Five Nations.

In Mohawk territory the Peacemaker encountered Hiawatha, an Onondaga who had been driven mad with grief at the loss of his family through sorcery. The Peacemaker condoled Hiawatha, restoring his mind with words that were subsequently incorporated into council proceedings and called variously thereafter the words of the Requickening Address, the Welcome at the Woods' Edge, Rubbing Down of the Body, or the Three Bare Words if spoken without the use of wampum.

The Peacemaker and Hiawatha together drafted the Great Law of Peace, which became the constitution of the Haudenosaunee, with each article symbolized by a string of wampum.[25] The central message of the law is summarized as Righteousness, Health and Power.[26] According to tradition, the Peacemaker said,

> I carry the Mind of the Master of Life...and my message will bring an end to the wars between east and west.
>
> The Word that I bring is that all peoples shall love one another and live together in peace. This message has three parts: Righteousness

and Health and Power – *Gáiwoh, Skénon, Gashasdénshaa.* And each part has two branches.

Righteousness means justice practiced between men and between nations; it means also a desire to see justice prevail.

Health means soundness of mind and body; it also means peace, for that is what comes when minds are sane and bodies are cared for.

Power means authority, the authority of law and custom, backed by such force as is necessary to make justice prevail; it means also religion, for justice enforced is the will of the Holder of the Heavens and has his sanction.[27]

The rule of peace was to be achieved by persuading leaders of nations to reflect on the good message, for, as the tradition teaches, the power of the good mind could take hold of the most vicious cannibal and transform him into an emissary of peace.

The Peacemaker and Hiawatha succeeded in persuading first the leaders of the Mohawk, then in succession the leaders of the Oneida, all but one of the Onondaga, the Cayuga and the Seneca to the way of peace. However, Atotarho, a powerful Onondaga chief, whose head was covered with snakes and whose body and mind were twisted, rejected the good message. Through the combined strength of the chiefs of the Five Nations, who approached his dwelling singing a song of peace, and the eloquence of Hiawatha, who explained how the law would work, and the spiritual power of the Peacemaker, who could make straight both mind and body, Atotarho came to accept the message of peace. He was made chairman of the council of the League of Peace, and the central council fire was placed in the territory of the Onondaga.

To mark the peace that had been concluded, the Peacemaker uprooted a great white pine tree, and his words establishing the symbol of the tree of peace are recorded in the Great Law:

I, Dekanawideh, and the confederate lords now uproot the tallest pine tree and into the cavity thereby made we cast all weapons of war. Into the depths of the earth, down into the deep underearth currents of water flowing into unknown regions, we cast all weapons of strife. We bury them from sight forever and plant again the tree. Thus shall all Great Peace be established and hostilities shall no longer be known between the Five Nations but only peace to a united people.[28]

The Great Peace was not to be restricted to the Five Nations alone. The law also provided that

Roots have spread out from the Tree of the Great Peace...and the name of these roots is the Great White Roots of Peace. If any man of any nation outside of the Five Nations shall show a desire to obey

The Condolence Ceremony

The condolence ceremony to raise up a new chief began with attention to the grief of the family, clan and nation that had suffered loss. The words and ministrations were carried out by the nations and clans, which sat on the opposite side of the council fire.

> We have met in dark sorrow to lament together over the death of our brother lord. For such has been your loss. We will sit together in our grief and mingle our tears together, and we four brothers will wipe off the tear from your eyes, so that for a day period you might have peace of mind.... This we say and do, we four brothers.*
>
> Now hear us again, for when a person is in great grief caused by death, his ears are closed up and he cannot hear, and such is your condition now.
>
> We will therefore remove the obstruction [grief] from your ears so that for a day period you may have perfect hearing again... This we say and do, we four brothers.
>
> Continue to hear the expression of us four brothers, for when a person is in great sorrow his throat is stopped with grief and such is your case; now, we will therefore remove the obstruction [grief] so that for a day period you may enjoy perfect breathing and speech. This we say and do, we four brothers.

The foregoing part of the condolence ceremony is to be performed outside the place of meeting.

> the laws of the Great Peace...they may trace the roots to their source...and they shall be welcomed to take shelter beneath the Tree of the Long Leaves.[29]

The practice of memorializing agreements in wampum goes back to the founding of the Confederacy. Wampum belts of varied design are objective representations of the principles of democracy institutionalized in the Great Law of Peace. The Hiawatha wampum belt, for example, depicts the founding of the Confederacy, with two nations represented by rectangles on either side of the Onondaga, the Firekeepers, who are represented by a pine tree. One of the duties of the Onondaga Nation, as Firekeepers, is to care for the belts and strings of wampum that have been preserved as repositories of Haudenosaunee culture and law.

The ceremony then moves to the place of meeting. A drink of medicine is offered that, "when taken and settled down in the stomach it will pervade the whole body and strengthen him and restore him to a perfect form of man." The signs of death are wiped away from the seat of the mourners and the dark mood that has settled on the mourners is lifted with these words:

> When a person is brought to grief by death he seems to lose sight of the sun; this is now your case. We therefore remove the mist so that you may see the sun rising over the trees or forest in the east, and watch its course and when it arrives in midsky, it will shed forth its rays around you, and you shall begin to see your duties and perform the same as usual. This we say and do, we four brothers...
>
> We therefore cause you to stand up again, our uncles, and surround the council fire again, and resume your duties...
>
> Now we return to you the wampum which we received from you when you suffered the loss by death. We will therefore now conclude our discourse. Now point out to me the man whom I am to proclaim as chief in place of the deceased.

* The four brothers' side of the Confederacy Council consisted of the younger brothers, Oneida and Cayuga, together with adopted nations, the Tuscarora and the Tutelo. See Michael K. Foster, "On Who Spoke First at Iroquois-White Councils", in *Extending the Rafters* (cited in note 11), p. 203.

Source: The quotations are from *Parker on the Iroquois* (cited in note 26), Book III, pp. 110-113.

Although each of the Five Nations retained autonomy in internal affairs, each had chiefs appointed to a central council, which met at least once a year. Fifty titles to denote the rank of chief were established and distributed unequally among the Five Nations. The Mohawk had nine seats in council, the Oneida nine, the Onondaga 14, the Cayuga 10, and the Seneca eight. However, the different weight of representation did not give any nation an advantage, since decisions were made by consensus.[30]

Consensus decisions were reached by the following process: the Mohawk, Seneca and Onondaga were designated the Elder Brothers; the Oneida and Cayuga were the Younger Brothers. The Elder and Younger Brothers sat on opposite sides of the council fire while the Onondaga, the Firekeepers, took their place on a third side.

> Counselling began with the Mohawk chiefs conferring together, and having reached a decision, their speaker announced it to the Seneca. If these tribes found they were in agreement, the speaker of the "Three Brothers", who was usually a Mohawk, announced the decision of the "Three Brothers" side to the chiefs of the opposite side. In like manner, the chiefs of the Oneida and Cayuga arrived at a decision, which was then announced by the speaker of the "Two Brothers" side...[31]

The matter might be passed back and forth across the fire several times before agreement was reached. The Firekeepers would then summarize and confirm the decision. If no agreement could be reached, the Firekeepers might defer a decision or, if it was an urgent matter, they could break the impasse by taking a position.

The chiefs of the central council, sometimes called sachems or confederate lords, were nominated by clan mothers, the senior women in families entitled to make these nominations. According to tradition, a woman, Jigonhsasee, was the first person to accept the message of peace and power. The Peacemaker called her the Mother of Nations and declared that women would have the responsibility of naming chiefs to their titles and offices.

There was considerable consultation among household members, clan members and co-residents of the village in the choice of a chief. The nominee had to have the support of councils involving both men and women at each stage of consultation, and finally he had to win confirmation for his lifetime position at a general council of the confederacy, where his character from childhood was under scrutiny. Men were the speakers in council but women played an active advisory role. Women were also responsible for warning chiefs who failed to represent the interests of the people and for removing them from office if they did not heed the warnings.

A new chief was installed in his position as a sachem of the Confederacy Council in a condolence ceremony, which has been passed down in the oral tradition since time immemorial.[32]

In addition to the titles of peace chief, which were passed down through families, there were pine tree chiefs who attained non-voting positions on council through merit. There were also speakers designated to bring forward matters specifically on behalf of the women or the warriors, or to announce decisions reached by the sachems. "Speakers were chosen for their ability to grasp principle and fact, for rhetorical gifts, and for retentive memory in a society in which most men and women were walking archives."[33] In colonial times, such speakers were very influential, often being identified by recorders when the decision makers for whom the speaker was the voice remained anonymous.

The Confederacy Council was responsible for external affairs, which included trade, alliances and treaties. They also made decisions on engagement

of the Confederacy in war, although individual nations, villages or families could mount war parties in situations where their own interests were affected. Confederate lords relinquished leadership to war chiefs in times of war, since the lords were selected for their dedication to the ways of peace. The qualities of character required of them are described in the Great Law:

> The Lords of the Confederacy of the Five Nations shall be mentors of the people for all time. The thickness of their skin shall be seven spans – which is to say that they shall be proof against anger, offensive actions and criticism. Their hearts shall be full of peace and good will and their minds filled with a yearning for the welfare of the people of the Confederacy. With endless patience they shall carry out their duty and their firmness shall be tempered with a tenderness for their people. Neither anger nor fury shall find lodgement in their minds and all their words and actions shall be marked by calm deliberation.[34]

To give substance to the notion that all the nations were of one family, the Great Law established that the clans, which are said to pre-date the founding of the confederacy,[35] were to transcend national boundaries. Thus a member of the Bear clan would be related to all members of the Bear clan in any of the Five Nations. When he travelled he could expect to receive hospitality and be treated as a brother by his Bear clan relatives wherever he travelled, and he had to be careful not to fall in love with a sister encountered in his travels, because only marriage outside the clan was permitted. If the Five Nations made war on one another, brothers would be raising their hands to kill brothers.

To dampen conflict over trespass and property, the Great Law established common access to hunting grounds:

> "We shall have one dish," said Deganawidah, "in which shall be placed one beaver's tail, and we shall all have a co-equal right to it, and there shall be no knife in it for if there be a knife in it there will be danger that it might cut someone and blood would thereby be shed."[36]

The whole of Haudenosaunee society was knit together in bonds of biological and attributed kinship, and each relationship carried with it reciprocal obligations. Matters of common interest were discussed first in the household or extended family, second in the convocation of clans to which the family members belonged, then in the groups of clans that made up a 'side' of the village council house, next by the council of the nation and ultimately, if the matter was of international scope, in the council of the confederacy. Decisions of the confederacy council followed, in reverse order, a similar path of consideration and acceptance or rejection in councils in each unit of society.[37]

Since the confederacy chiefs had no mandate to enforce decisions within the nations, their power rested solely on the respect their positions commanded and their skill in weaving consensus from the disparate positions represented in council deliberations. Authority to provide for the needy and care for the sick rested with mutual aid and medicine societies, which appear to have been village-based, although the rules of hospitality that bound biological relatives and clan members to share food and shelter with kin ensured that no one was destitute. Family and clan members carried responsibility for resolving disputes, which were more likely to entail offences against the person than violations of property rights. Strenuous efforts were made to reconcile the persons and the families of victim and offender, for the consequences of the blood feuds that once prevailed among them were kept fresh in their memories through recitals of the Great Law.[38]

How the integrity of a wholly oral tradition is maintained over generations is described by Leon Shenandoah, the contemporary holder of the Onondaga title of Atotarho, the most honoured position in the confederacy council. As a small child he was taken to a Seneca man to have a curing ceremony performed. An old man at the ceremony stood up and announced, "You are that boy!" – the one who would have a high position when he grew up.

> It was already decided, when I was young, what I am doing today. My mother didn't say anything, but that's probably why she pushed me along this path. We made a special point of going to ceremonies. When there was a ceremony in the longhouse, I wouldn't go to school. My mother said, "You're not going to school. You're going to the ceremony". That made me glad. I didn't like school. So I grew up going to the ceremonies all the time, and in time I learned how to run the ceremonies and to be in charge. And now it is getting to be a time when someone else must learn and take over from me.
>
> When I was young and I first began to listen to the chiefs, one of the two men I have known in this lifetime who held the title of Tadodaho [Atotarho] stood at council and said, "You must watch what we are doing and listen to what we say. Someday we will not be around and others must succeed us." He met with the group I was with, and it sounded like he was talking to me. Since then I have tried to live that way – as though he were talking to me.[39]

In his testimony to the Commission at Akwesasne, Chief Jake Thomas also spoke of the long apprenticeship necessary to fulfil the role of sachem: "I have sat, you might as well say, for fifty years, to gain my knowledge."

William N. Fenton, a prominent scholar of Iroquoian cultural history, who set the pattern for much of the research conducted since the 1930s,[40] has taken a number of carefully grounded positions: (1) that the political structure of the

Iroquois League is ancient in origin and that it has remained stable over a long period;[41] (2) that "In the crucible of Indian and White relations the patterns that had governed Iroquois life for centuries became compelling and forced the White people to approach the Indian in a highly ritualized way that was completely foreign to European ways of thinking";[42] and (3) although versions of the oral tradition differ from one ceremonialist to another, and while some elements of culture have dropped out and others have been inserted, the underlying structure persisted, "so that when one compares the paradigm of the Condolence Council [for installing confederacy chiefs] of today with the protocol of the earliest alliances and treaties, essential parts are recognizable and seemingly identical." Fenton concludes that ethnohistory is best served by applying insights from contemporary accounts of Aboriginal persons knowledgeable in their culture, along with documentary records that are fragmentary and sometimes blatantly biased by the political or economic motives of the colonial participants, to achieve an in-depth understanding of early relations.

The Haudenosaunee have quite a different test for the authenticity and authority of the traditions that have been passed down orally and that they practise today. As Chief Thomas explained, "That peace is supposed to work. It's the power of the words of the Creator where they came from, of unity, being of one mind, a good mind. That's what makes power."

3. The Blackfoot Confederacy

The boundaries of the territories of the Blackfoot Confederacy in the period after 1756 were the Rocky Mountains on the west, the Yellowstone River in the south, easterly into the Cypress Hills, and northward to the North Saskatchewan River. The Siksikawa (Blackfoot), the Kainaiwa (Blood), and the Pikuniwa (Peigan) were members of the confederacy that shared a common language and culture, and they were joined by their allies the Tsuu T'ina (Sarcee) and the Gros Ventres.

The confederacy's neighbours on the plains included the Crow and the Dakota, traditional enemies, who were to the south and southwest; the Assiniboine, with whom they shared the Cypress Hills area to the east; and the Cree, with whom they were often at war, to the northeast.

Existing as politically distinct nations, the members of the confederacy occupied well-defined territories and were economically self-sufficient. While the confederacy allied them in the protection of their lands and the security of their nations, each member nation was politically independent – laws and protocols did not allow interference in one another's internal affairs except by invitation. Nevertheless,

> Often their members intermarried; frequently they united to hunt, to fight, or to celebrate as related peoples joined in a common enterprise.

> This constant intermingling...and the communal reliance upon the buffalo, forged lasting bonds. From this common experience developed a reality, a traditional collective consciousness specific to the Blackfeet.[43]

The Blackfoot have been referred to as Tigers of the Plains, and certainly there was conflict among the nations inhabiting the plains area and beyond. However, it often took the form of raiding parties to capture horses and take revenge, or to prevent illegitimate incursions on their respective lands, rather than to capture territory. Generally, the nations of the plains were content to live within the territories given them by the Creator as their collective property, and this they defended. The westward advance of the fur trade and non-Aboriginal settlement upset this balance and created conflicts between those who were displaced and those upon whose territories they were forced to relocate.

The introduction of the horse in the early eighteenth century greatly increased the mobility of the plains peoples.[44] Unlike the more sedentary woodland and agricultural nations, they used large territories to support their hunting and gathering economies. Relations with neighbouring nations for trade and land use were secured through various forms of peace treaties and protocols. Peaceful relations existed as long as these arrangements were respected – wars erupted when they were not. The Blackfoot epitomized plains cultures: "Of all the Plains Indians, the Blackfoot were most feared because of their daring, relentless spirit, their skill with weapons, and their amazing horsemanship."[45]

The land was considered a mother, a giver of life, and the provider of all things necessary to sustain life. A deep reverence and respect for Mother Earth infused and permeated Indian spirituality, as reflected in the Blackfoot practice of referring to the land, water, plants, animals and their fellow human beings as "all my relations".[46] Relations meant that all things given life by the Creator – rocks, birds, sun, wind and waters – possessed spirits. According to their beliefs, the Creator had given them their own territory and entrusted them with the responsibility of caring for the land and all their relations. This responsibility to protect their inheritance for future generations was embodied in the Blackfoot creation story:

> In later times...Na'pi said, "Here I will mark you off a piece of ground," and he did so. Then he said: "There is your land, and it is full of all kinds of animals, and many things grow in this land. Let no other people come into it. This is for you five tribes [Blackfoot, Blood, Peigan, Gros Ventre and Sarcee]. When people come to cross the line, take your bows and arrows, your lances and your battle axes, give them battle and keep them out. If they can get a footing, trouble will come to you."[47]

In Blackfoot, the word for earth is *ksa'a'hko*, which means 'touching the earth with the feet'. It meant that the land was an original grant from the Creator, and it was a grant to a specific people – not a grant in terms of individual ownership, but a grant in accordance with their world view and philosophy, for 'all my relations'. These relations among all living things were essential in maintaining the continuity of creation, for if the relational network were interfered with, imbalances would occur and the process of creation could come to a halt.[48]

Stories, legends and ceremonies transmitted these laws to assure the continuity of the nation and prevent unnecessary destruction of animals and nature:

> Creation is a continuity, and if creation is to continue, then it must be renewed. Renewal ceremonies, songs and stories are the human's part in the maintenance of the renewal of creation. Hence the Sundance, the societal ceremonies and the unbundling of medicine bundles at certain phases of the year are all interrelated aspects of happenings that take place on and within Mother Earth.[49]

Sacred sites were located in mountains and hills. Along with rocks, rivers and lakes these sites were designated for various purposes – vision quests, burial sites, recreational or medicinal uses, sundances and meeting (council) places within the Blackfoot territorial domain. Each site was named for its unique quality and special role in the rituals of the nation and became part of the living landscape to be visited and revisited each year. Gifts were left to pay tribute to the spirits that lived there.

The plains peoples were profoundly spiritual, and each day at sunrise they gave thanks to the Creator for the gifts bestowed upon them. In pipe ceremonies and spiritual ceremonies, all of creation was enjoined in the celebration of life and in supplication lest they be found unworthy.

Since the entire universe was believed to be inhabited by spirits, both good and evil, rituals were performed to ward off evil and to keep the world balanced on the side of good. Cosmic forces and celestial bodies were revered as powerful beings, since cosmic forces regulated seasons and migration patterns. Medicine wheels connected the stars and the universe with the earth.

Since the spirit (soul) would return automatically to its maker, the people of the plains did not worry about death or the hereafter but concerned themselves with the care of living things around them:

> ...the entreaties of an Indian's prayer are devoted entirely to his earthly existence. He does not seek to have his sins forgiven, neither does he beseech any deity to make of him a righteous person, so that he may be eligible for the abode of the blessed, because that principle is foreign to his belief. He believes that there is only one specific

> Hereafter, where all Indians, irrespective of how they have conducted themselves during their sojourn on earth, will go. This Hereafter is called by them the "Big Sands".[50]

Plains peoples were great believers in the supernatural, and dreams influenced daily movements and decision making. Vision quests provided guidance from the Creator, and medicine men and women, the old and the wise, predicted events and foretold the future through visions. Designs, pictographs and totems received in visions were painted on teepees and other personal articles.

The Blackfoot gathered once a year for their annual Many Lodges Gathering (sundance) in June or July:

> At such gatherings, all the main warrior, religious, women's, children's and police societies held their own special and unique ceremonies. It was a time for spiritual renewal and purification and the fulfilment of spiritual promises made to the Creator for the benefit of a loved one. Such ceremonies were performed in the main Sundance lodge situated in the middle of the huge teepee circle. It was also a time for visiting long missed relatives. It was a courting time for the young adults. Important decisions for the whole nation were made at these gatherings by the Head Chiefs and the Minor Band Chiefs, e.g., whether or not to make peace treaties or war on neighbouring enemy tribes. It was also time for exchanging gifts of all kinds and transfer ceremonies of sacred bundles, teepees, and society memberships. It was a great joyous occasion.[51]

The Sacred Pipe was given to the Indian nations by the Creator to pray with in search of wisdom, guidance, knowledge, and to bind all the relations together. In prayer and supplication, the ceremonial pipe was offered to the Great Spirit and to the Four Directions – east, south, west and north – to Father Sky, and then to Mother Earth. The sacred pipe linked man to his Maker, to the planet, animal, plant and spirit worlds, to his fellow human beings, and to himself. It created unity and harmony between all the powers of the universe and joined them in prayer. Smoke from the Sacred Pipe, which carried prayers and offerings to the Creator, were helped on their way by the thunderbirds, with the eagle at the apex of the thunderbirds. Smoking and touching the pipe were acts of consecration and imparted peace and truth to all who touched it and partook of the ceremony.

The pipe invoked the Creator in healing, in deriving wisdom and guidance in times of trouble, in seeking knowledge in councils for decision making, and in obtaining blessings when decisions were made. Nothing but good could come from the pipe; anything bad or negative was banished in the presence of the Creator. The pipe was a testimony to the truth and honour of all sacred pacts

undertaken in councils and among indigenous nations and, later, in the making of treaties with the Crown.

Natural medicines were carefully gathered at various locations and in different seasons of the year and preserved so that a continuous supply was available year-round. Such medicines served the people well in the normal course of events, but they were not effective when foreign diseases, with which they had no prior experience, made their appearance.

Cleanliness, in both mind and body, was practised as part of the daily ritual. For example, water and steam in sweat lodges were used for cleansing the mind, the spirit and the body throughout the seasons. Sweat baths, sweetgrass and other herbs acted to cleanse the mind and body before entering into sacred or healing ceremonies such as the pipe ceremony or the sundance. Diet and their active, outdoor way of life combined to make the people of the plains healthy and robust until the diseases brought by Europeans and the destruction of their food supply, especially the buffalo, destroyed the balance of their societies.

Blackfoot land had all the natural elements required to sustain the nation. Theirs was a hunting and gathering economy, and although the buffalo was their staff of life, other big and small game, as well as migratory and other birds, supplemented their diet. The berries, plants, herbs and root crops that grew naturally on the plains were harvested in a routine that was anything but nomadic, a term that has tended to signify a haphazard use of the land.[52]

The wide variety of meats, fruits and vegetables assured the Blackfoot children of magnificent physical development. Although lesser animals were used for food, the buffalo was considered the superior food by the plains peoples.

Seasonal movements were largely synchronized with the movement of the buffalo and other animals and the ripening of plants, foods and medicines. Groups had rather fixed patterns of movements on the plains during the summer and as they moved in their annual cycle from spring to summer and fall to winter. In their wintering sites small separate groups lived along sheltered, wooded river bottoms within reach of the buffalo and within reach of other groups to ensure protection against enemies.

People of the plains nations were able to preserve and store large quantities of meat (jerky), sometimes mixed with mint and sage, for the long winter months. Pemmican made from sun-dried strips of meat was shredded, mixed with rendered oil from the buffalo and with berries and dried vegetables, and stored. Long forays were made to trade with other nations, a trade in which pemmican, buffalo robes, Blackfoot weapons and other goods were exchanged for shells, beads, pipestone, paint and religious products. Trading with the Ute and Paiute nations for salt at Salt Lake was also frequent.

It was the buffalo, however, that remained the basis for their economy because it provided for virtually all their needs. The buffalo supplied working tools, drinking vessels, storage containers, shields, transportation equipment and

shelter – the average lodge or teepee required perhaps 15 buffalo hides. Clothing was made from buffalo and other big game hides, tanned and worked until it was soft and pliable leather. Fringes and dyed quill designs were added for decoration. Headwear and footwear were fur-lined in winter and made lighter in summer. Buffalo, bear, elk, mountain goat and other large game provided robes, blankets and clothing for warmth in winter.

Because they were the means of ensuring a viable economy, horses became the measure of a person's wealth by the early nineteenth century. Horse trading was extensive throughout the plains, and training and breeding of horses required a great deal of time and energy. Stamina, agility and speed were the attributes of a valuable horse.

The relationship between the buffalo and the plains peoples was one of respect and interdependence in the sense that, if the people protected the buffalo, the buffalo would protect them by supplying their most important resources. The buffalo were revered as true soul mates because, like the people who chased them, the buffalo were believed to have a free and indomitable spirit.[53]

> The buffalo is considered sacred by the Blackfoot. In Blackfoot myths, the buffalo was the first animal given to the Blackfoot by the Creator for food. It is the totem of the oldest and continuing sacred societies of the Blackfoot: the Horn Society. The Horns conducted their ceremonies during the annual sundance.[54]

The destruction of the buffalo and the economy of the plains peoples was unsurpassed in its terrible impact – widespread starvation ensued, and they could no longer produce the food, clothing and shelter they needed. More than anything else, it dealt a mortal blow to the spirit of the plains peoples from which it would take a long time to recover:

> But now the face of all the land is changed and sad. The living creatures are gone. I see the land desolate and I suffer an unspeakable sadness. Sometimes I wake in the night, and I feel as though I should suffocate from the pressure of this awful feeling of loneliness.[55]

In Blackfoot culture, descent was recognized through both the paternal and the maternal line. Men and women contributed to the continuance of the nation in different ways. For example, men were providers of food and protection, while women were responsible for overseeing the domestic side of tribal life. Although women were the backbone of these societies, providing for many of the material needs of the tribe, they were also the teachers, inculcating tribal laws and customs in every facet of tribal life. Where men sought valour and respect in manly deeds, the survival of the nation also depended on the moral and spiritual strength of the women.

Like Mother Earth, women were held in high esteem as givers of life and were protected and sheltered by the nation. Some played powerful roles. Among the Blackfoot, for example, women of impeccable character presided over the sundance. Among the Peigan, the term *Ninaki* was used to indicate a chief woman or favourite wife, who was accorded certain exceptional privileges and prestige in areas typically associated with men. The 'manly hearted women' excelled in every important aspect of tribal life – property, ownership, ceremonialism and domestic affairs.[56] As well, the Blood had a society for women called the *Motoki*, which conducted rituals to honour the importance of the buffalo to their culture.

The Blackfoot ethical code was imparted to the young through oral history and traditions. Social and moral codes were rigidly enforced, and premarital social interaction was conducted in public. In addition, children were taught by example. Girls and boys used play modeled after the adults' behaviour and were thus imbued with the values of the society – industriousness for girls and hunting ability and bravery for boys.

Young men learned horsemanship and were trained to be equestrians of the plains. Summer and winter games occupied the young, while socializing, tea drinking, visiting and storytelling occupied the adults during long evenings. Blackfoot youth and men enjoyed passing the time with gambling and games of chance.

Status was earned by individual achievement and provided the incentive to succeed. Wealth was measured by the ability to provide a plentiful food supply and indirectly by the number and quality of horses in one's possession. Careful management of breeding stock increased the number of horses and, correspondingly, one's wealth. Horses were critical to the economy and defence of the nation, and the material wealth of the individual depended to a great extent on the number of horses at his disposal. Raiding for and breeding horses were the principal means of increasing their numbers. The number of horses available at any given time often meant the difference between life and death in situations that presented a threat.

Although it was the exception rather than the rule, men who were good providers had several wives, because many women were war widows and needed a provider, and because the production of food, clothing and shelter was difficult and required the labour of many hands. The families of the chiefs and other good providers extended their largesse to the poor, the old and the indigent. Because of the tradition of sharing and the lack of many types of accumulated wealth (e.g., permanent dwellings), the passing on of social status through inheritance was limited. Rather than accumulation, the culture emphasized the exploration and expansion of the spiritual dimension.

While land was owned collectively by the Blackfoot people, individual ownership of property existed, aside from land, and could be transferred from

one individual to another. No one could appropriate the property of another member, and the right of individuals to defend their property was part of the nation's law.

In their social organization, the Blackfoot and allied nations were notable for their use of organized societies to carry out particular administrative, spiritual and other functions. There were at times eight different societies officiating at the various hunting, social, ceremonial and political gatherings of the nation, each with different responsibilities.

Police or warrior societies carried out the orders of the political chief and of the war chief if he was in control. These societies served to police tribal life and to settle disputes, being responsible not only for punishing offenders but for rehabilitating them as well.[57] Youth served in different societies as they grew older and were given more responsibility according to their age and abilities. By their 20s they served as camp police, patrolled at night, acted as guardians during the hunt, protected the band, and carried out punishment.

> Absolute governmental authority was exercised only at special occasions such as the annual tribal hunts or the 'Many Lodges Gathering'. The police societies (All Brave Dogs and Black Soldiers Society) were used to the greatest extent by the Chiefs to carry out 'executive orders' and instructions on how to maintain the camp or who was responsible for a number of important government functions and roles of key tribal government officials. The greatest of the Chiefs would not personally or directly command a recalcitrant individual to fall into line. That duty or order was carried out by a member of the police societies.[58]

The secret Horn society oversaw the buffalo hunt and participated in the sundance. When communal hunts were held in the summer and fall, order and discipline prevailed.

Adults who broke the law were held up to public ridicule and embarrassment. Their social standing was so diminished that it sometimes drove offenders into self-imposed exile or battle. The tremendous power of public censure did much in itself to curtail dishonourable conduct, misbehaviour and violence. Transgressions and other deviant behaviour were dealt with by consensus in council with the chief, the war leader and the heads of families.[59]

Punishment and penalties were meted out for murder, theft, adultery, treachery or treason, cowardice, and greed or selfishness. Although murder was rare, when it occurred the aggressor was stripped of his property and revenge by relations was allowed. Theft required the full restoration of the property after apologies were made. Adultery could sometimes result in death, but divorce was allowed in some cases by returning gifts provided at the time of marriage.[60] A woman could leave her husband because of cruelty or neglect, or a family or other

type of intervention might occur. There was, however, enormous social pressure to preserve the family unit and ensure couples stayed married. Divorce was discouraged and marriage looked upon as permanent, since the inability to preserve them meant that relational networks would break down and weaken the social structure of the nation.

Treason, where it involved the security of the nation, meant death on sight. Cowardice was rewarded with ridicule, and greed, when a person acted selfishly against the interests of his people, was dealt with severely. A greedy person, or a person with an acquisitive nature, was quickly ostracized in tribal life.

Hunting expeditions were managed carefully and anyone who interfered with the buffalo hunt by disrupting it or contravening orders was dealt with swiftly and effectively by having his horse seized, his riding gear destroyed and his other possessions taken.[61] However, taking responsibility for one's behaviour and offering restitution usually allowed the offender to return to the tribal structure. "Conformity, not revenge, was sought, and immediately after a promise to conform was secured from the delinquent, steps were taken to reincorporate him into the society."[62]

Plains nations tended to be band-centred during most of the year, but nation-centred during the summer months. The band, the smallest political unit, was built upon the extended family. Bands lived separately for most of the year and came together annually for major summer ceremonies and communal hunting. The band had to be small enough to sustain its economic base yet large enough to protect itself. Bands were fluid and mobile political units operating year-round and made up the larger political unit of the nation, which met in council annually.

Leaders or headmen of bands held office throughout the year, but those who officiated and acted as spokesmen at the nation level exercised authority at that level only when the nation met in annual council. "The most influential band chief became recognized as the head chief of his tribe. However, his rank was of little significance except during the period of the tribal encampment in summer. Even then his role was more that of chairman of the council of chiefs than of ruler of his people".[63]

Leaders were not elected to office, but gained recognition for their contributions to the band and the nation and for personal qualities such as wisdom, honesty and strength.[64] Two essentials for leadership were an outstanding war record and a reputation for generosity. Leaders had to be warriors of proven mettle with the ability to protect the band and to carry out acts of revenge, or war, against the enemy. Generosity was equally important:

> A chief could receive and maintain his status only by lavish generosity to the unfortunate. Therefore, charity, next to a fine war record was the basis for achieving and maintaining high standing. Especially

> among the Blackfoot tribes, a man aspiring to become a leader sought to outshine his competitors by his feasts and presents given to others, even at the cost of self-impoverishment. Once selected, he was expected to give away with one hand what he had obtained with the other. Greed...was not a Blackfoot virtue and was despised as a personal trait....Care of the poor was one of the recognized responsibilities of the band chief. Should he fail in this duty, his leadership position was seriously jeopardized.[65]

Persuasion through oratory played no small role in maintaining leadership. Oratory and the individual's experience and accomplishments frequently determined the stature of a leader:

> Council meetings were usually attended by the head chief, the war chief, and the heads of leading families. Decisions were made by consensus, rather than by majority vote, and the head chief seldom tried to give direct orders to the other councillors. He knew they were too proud and independent to be intimidated and that they could always withdraw from the camp if they disagreed with him. Instead the head chief tried to win adherents through oratory; when he felt he had enough support, he would announce his own intentions. If there was a dispute as to whether the camp should move north or south, the chief might present his arguments, gain support, and then say that he was going south. He did not order the others to follow, but he knew that they would probably go with him.[66]

Leaders who lost the respect of their members lost their following:

> The Blackfoot had a system of informal leadership. The "chiefs" were "leaders only by the consent and will of their people". They had no power except that of personal influence. A head "chief" was not formally selected; he "attained his position simply by a growing unanimity on the part of the head men of the bands as to who should hold the position". If the band headman opposed the desires of the members of his band, the band simply deserted him and got another headman. The tribal councils were likewise informal; they were just gatherings of the band headmen.[67]

The civil and military system of government of the Blackfoot, described by David Thompson, was orderly and well managed:[68]

> [They] had a civil and a military chief. The first was called Sakatow, the orator, and his office was hereditary in the family. He was responsible for order and discipline throughout the tribe, and had under his command a company of couriers who travelled from one camp to

> another delivering orders of the day, and collecting news. The information thus gathered was made known to the lodges each day at sunset, somewhat after the fashion of a town-crier. In addition to his couriers, the civil chief had charge of the police force, whose function it was to quell all civil disturbances, keep order in camp, and strictly supervise the nightly games of chance with which the young men entertained themselves.
>
> The war chief, on the other hand, concerned himself solely with the training of his young men in the arts of war, and in leading his tribal forces against the enemy.[69]

The proliferation of mobile plains cultures increased the range of encounters among nations, leading at times to conflict. War was sometimes seen as a game, with horses the bounty and prestige that could be achieved by carrying out formalized deeds of skill and bravery – for example, through counting coups, which involved touching (not killing) the enemy with a weapon.

Trespassing on a nation's territory without previous arrangement or warning often ended in warfare. Intruders, in search of furs and buffalo to supply trading posts, often ventured into the lands of plains peoples, causing them to push the invaders back. The Blackfoot and Cree, who had many altercations, made periodic efforts to settle their differences by making peace treaties.[70] Raiding for horses or revenge also created conflict and war. The Blackfoot generally raided for booty, and the booty was usually horses.

Revenge, as a system of retribution, was essentially an eye for an eye, a tooth for a tooth, and was customary for Blackfoot and other plains nations. When one of their people was deliberately killed or injured, action was taken against the offending band or nation. Retribution was meted out swiftly to the first persons of the offending nation who were encountered, rather than the specific individuals guilty of misconduct.

A fierce love of freedom and independence, balanced by responsibility to the Creator, the nation, the land and the others who inhabited the earth were the dominant characteristics of the plains tribes. They carried out their responsibilities of stewardship of the land for all their relations and for future generations. This stewardship remained intact until the buffalo, their lifeblood and soul mate, disappeared and the plains people were confined to smaller and smaller areas of land by non-Aboriginal settlement.

Because of their individualism and independence, the Blackfoot failed to unite with other plains nations to defend and protect their common interests during the spread of settlement to the western plains.

> The Great Plains Indian was a firm individualist. No single person ever held total influence over any Blackfoot tribe. A Chief ruled by the "will of the people" so long as he remained true to his duties and

> continued to provide sound leadership. Individualism prevented the Great Plains Indian tribes from forming a great alliance against the armies of the Canadian and U.S. governments. This was fortunate for the soldiers and white settlers alike, for the Great Plains Indian tribes constituted the best light cavalrymen the world has ever known. Had they united, the course of Canadian and American history and politics could indeed be very different today.[71]

The Blackfoot, like all plains nations, suffered greatly from the crush of settlement and the resulting changes in the social, political and environmental landscape; but throughout they tried to continue to live in the traditions of their ancestors. Despite the *Indian Act* and constant attempts by governments to destroy their traditional governments and spiritual ceremonies, many Blackfoot people continue to apply traditional values in the selection of their leaders and in the internal and external relations of their governments.

Over the years the Blackfoot have also been engaged in revitalizing and renewing their traditional forms of government, their ceremonies and all their relations with the physical and spiritual world around them.

4. The Northwest Coast

The Pacific coast of present-day Canada is a region rich in food and other resources. In pre-contact times, the environment supported concentrations of population greater than in any other part of Canada, with the possible exception of southern Ontario where various Iroquoian nations practised farming.[72] Tribes or nations throughout what is now coastal British Columbia, extending north to Alaska and south to California, shared elements of material culture and social organization. Well-established trade networks throughout the coastal region and into the mountainous interior allowed for easy exchange of prized materials and manufactured goods, while intermarriage between groups served to transfer social and ceremonial practices as well. Despite the commonalities of culture, which we will sketch through specific examples, the distinct identities and origins of at least seven major groups are evident in the distinct language families found in the northwest coast region: Tlingit, Tsimshian (including Nisg̲a'a and Gitksan), Haida, Nuxalk (Bella Coola), Kwakwa̲ ka̲'wa̲kw (formerly known as Kwakiutl), Nootka and Salish.

The land and waters of the region not only provide the means of sustenance in abundance, but they also prescribe the boundaries of human habitation. In the north, towering mountains of the Coastal range, cut by deep river canyons with sheer cliffs rising hundreds of feet, make travel difficult, except by water or through a few passes. In the south, river beds follow gentler gradients all the way to the rounded hills of California. Offshore currents moderate the climate and

generate water vapour, which is carried to the coastal mountains where it condenses and creates the heavy rainfall characteristic of the region. Vegetation is dense, consisting mainly of thick stands of fir, cedar, spruce, yew and, in the south, redwood.[73]

Peoples of the northwest coast typically occupied permanent villages during the winter season and migrated to berry grounds and fishing stations during spring, summer and fall. Ancient garbage piles made up largely of shellfish shells preserve clues to village life in ancient times and indicate that people have lived in communities in the region for 5,000 to 8,000 years.[74]

Permanent houses were fashioned from the plentiful cedars, which yielded planks as large as two metres wide and 10 metres long. Tsimshian houses, for example, were 15 to 20 metres long on each side, with roof plates and floor sills cut into, and securely joined with, huge upright cedar logs. Vertical wall planks were fitted into grooves in the roof plates and sills, and gable roofs were supported by ridgepoles. Planks were removable and were carried on canoes, catamaran-style, to transport household goods to fishing sites in the summer season. Plank houses, or longhouses, accommodated 20 or more related persons and were grouped in villages of 500 or more persons. Houses were situated in a manner that reflected rank and social relationships, with the house of the highest ranking chief in the centre. According to legend, the various kinds of animals lived in similar ranked villages, either in the forest or beneath the sea.[75]

Detailed descriptions of northwest coast material culture and social relations are derived from anthropologists' accounts in the post-contact period, but they illuminate technology and intellectual culture reaching deep into the past. Examples from the Kwakwa̲ ka̲'wa̲kw are presented by way of illustration.

The Kwakwa̲ ka̲'wa̲kw used cedar wood and bark for purposes other than housing. Canoes ranging in length from two to 20 metres were hollowed out of single logs and steamed to expand their width. Cedar planks were also used to make all manner of containers. Bentwood boxes were made by precisely scoring a plank on both sides, steaming it to make it flexible, and bending it to a ninety-degree angle. The fourth seam was pegged or sewn together and a bottom and lid added. In their roughest form they could be used for temporary storage, but careful crafting to make boxes airtight, and decorating them with family crests, raised the craft to an art form. Boxes were used to store food and ceremonial regalia, to cradle children and to bury the dead.

Sheets of bark were stripped from trees, which might be felled or left standing. The smooth inner bark was beaten to make the fibres flexible for loom weaving of material for capes, skirts and blankets. The same bark, separated into even strips, was woven checkerboard style to make mats for serving food or lining sleeping quarters, for house insulation and partitions, and to protect canoes from the hot summer sun. Cedar roots and branches were gathered to sew planks together and to make utility baskets for storage, gathering and washing shellfish.

Although the environment was lush, it did not offer sustenance without effort. The Kwakwa̱ ka̱'wa̱kw used an intimate knowledge of the woods and waters to exploit the wealth around them and sophisticated technology to recover and preserve available foods. Although everyone was expected to acquire the skills to work common materials into products for everyday use, there were also specialists who apprenticed as carvers and artisans or doctors who understood the healing properties of various plants. Tools in use at contact, such as adzes, chisels and knives made of shell, stone or bone, survive today in basically the same design, now made of metal.

The surplus commodities generated by the knowledge and technical skills of people of the northwest coast not only provided security and leisure but also supported ceremonial life, centred around the feast or potlatch and trade between neighbouring and distant peoples. The practice of potlatching was intimately tied to the rank-ordered social organization of northwest coast societies. We draw particularly on accounts of the Tsimshian for illustration.

In describing the arrangement of houses we noted that households normally included 20 or more members of an extended family. In the northern part of the region these relationships were traced through the mother. In the southern part they were traced more often through both mother and father. In addition, families were related to one another in looser groupings sometimes referred to as clans, sometimes as lineages or houses. Segments of several clans might be represented in a single village. Clans traced their origin to an ancestor who was either an animal that could assume human form or a human being who had encountered such a supernatural being. The ancestor was the originator or the recipient of special gifts, which might be represented in names, crests, songs, stories and entitlements to harvest the fish, game and plants of certain places. Only the descendants of the common ancestor could exercise the privileges bestowed, and the relationship with the spirit benefactor had to be maintained by ceremonial observances and correct behaviour.

Names were inherited and carried with them different status and prerogatives. Thus, within a clan there would be a principal chief who carried the most prestigious name, while others in the lineage would have varying, lesser ranks. The clans making up a village would occupy different ranks, and chiefs of the various different villages, when represented at ceremonials, would all occupy recognized places in the overall order of prestige.

Potlatches provided occasions to acknowledge and confirm this social order ceremonially. They were convened to mourn deaths, bestow names, erase the shame of accidents or ceremonial errors, recognize succession to titles and economic rights, and acknowledge marriages and divorces. The seating of guests and the value of gifts distributed accorded strictly with the prestige of each chief and lineage member. Attendance at the event and acceptance of gifts distributed confirmed that the participant had 'witnessed' the business being conducted. For

example, if a chief died and a new chief assumed his name and rights over his territories, the new title holder would convene a feast where the boundaries of the territories would be recited. If the guests from other clans and neighbouring territories considered that the claims being made were wrong, they had an obligation to say so. Claims to territory, when validated through feasts, could not subsequently be overturned, because the memory of witnesses was a record as reliable in an oral culture as a deed in a registry office was in a literate culture.

The chief hosting the potlatch had the authority to convene the feast and to collect surplus goods from clan members to feed the guests and distribute presents, but his ceremonial position did not give him authority over members. Being a good host and showing generosity brought respect not only for the chief but also for the members of his clan. The desire to uphold the honour of the clan motivated clan members and their relatives to contribute. Although the chief could not command, he did have influence in decisions about village defence or the well-being of members, but these decisions were normally taken in consultation with other ranking members of the household and/or chiefs of other clans represented in the village.

Villages functioned autonomously, although villagers that were related linguistically or connected in trading relationships often came together ceremonially to cement relations. Conflicts within related groups such as the Tsimshian were known to occur over boundaries or the insult or even murder of a chief. Feasts were a means of avoiding or resolving such conflicts. Europeans observed that the potlatch was a way of fighting with property rather than with weapons.

Obviously, potlatches could be convened only by clans favoured with surplus resources harvested and manufactured from their environment. Accumulating goods for distribution at a potlatch could go on for years if the claims to be validated were of major significance to the clan. Not only the clan members contributed to the preparations. The rule was that persons had to marry outside their clan, with the result that every individual was related to two clans. In a matrilineal society such as the Tsimshian, a chief was a member of his mother's clan. However, his father and his father's relatives contributed to the cost of hosting feasts and were subsequently repaid for their contributions, with interest.

The potlatch was so essential to maintaining boundaries, limiting trespass, and securing harvesting rights and social order that Tsimshian and other west coast peoples were willing to risk and endure imprisonment rather than give up potlatching when the practice was outlawed by an 1884 amendment to the *Indian Act*.[76]

Gifts distributed to witnesses at potlatches included objects of everyday use and others elaborated and decorated for ceremonial value: utensils, blankets, boxes, canoes and copper plates. One of the most valued items, which might be

Excerpts from Sir Alexander Mackenzie's Journal July 1793

A well-marked route to the Pacific...
They [the Aboriginal guides] assured us that the road was not difficult, as they avoided the mountains, keeping along the low lands between them, many parts of which are entirely free from wood. According to their account, this way is so often travelled by them, that their path is visible throughout the whole journey, which lies along small lakes and rivers. It occupied them, they said, no more than six nights, to go where they meet the people who barter...

Setting out on the trail...
Our guides conducted us along the lake through thick woods, and without any path, for about a mile and a half, when we lost sight of [the lake]. This piece of water is about three miles long and one broad. We then crossed a creek and entered upon a beaten track, through an open country, sprinkled with cypress trees.

Help along the way...
In about an hour we came to the edge of a wood, when we perceived a house situated on a green spot, and by the side of a small river. The smoke that issued from it informed us that it was inhabited. I immediately pushed toward this mansion.... I proposed to visit the fishing machines, to which the woman readily consented, and I found in them twenty small fish, such as trout, carp, and jub, for which I gave her a large knife...

Meeting Carriers along the way...
Every man, woman, and child, carried a proportionate burden, consisting of beaver coating and parchment, as well as skins of the otter, the marten, the bear, the lynx, and dressed moose-skins. The last they procure from Rocky-Mountain Indians. According to their account, the people of the sea coast prefer them to any other article. Several of their relations and

distributed or ceremonially burned at the feast, was oolichan grease. The oolichan is a member of the smelt family; the fish is harvested in great quantities and pressed to remove its oil, which is valued as a preservative for other foods and as a condiment. The fish is so rich in oil that, after pressing and drying, it can be threaded with a wick and burned as a candle; thus the alternative name 'candlefish'.

Oolichan oil was a principal item traded between coastal peoples and others of the interior of what is now British Columbia. The trade highways, called

friends, they said, were already gone, as well provided as themselves, to barter with the people of the coast; who barter them in their turn, except the dressed leather, with white people who, as they had been informed, arrive there in large canoes.

Through the mountains...
...and by [the guide's] advice I proposed to them to conduct us along the road which had been already marked out to us. This they undertook without the least hesitation; and, at the same time, pointed out to me the pass in the mountain, bearing South by East by compass.

More hospitality at friendly village...
We continued to descend till we came to the brink of a precipice, from whence our guides discovered the river to us, and a village on its banks.... When [the host] observed our design, he placed boards for us that we might not take our repose on the bare ground, and ordered a fire to be prepared for us. We had not been long seated round it, when we received a large dish of salmon roes, pounded fine and beat up with water, so as to have the appearance of a cream.... Having been regaled with these delicacies, for such they were considered by that hospitable spirit which provided them, we laid ourselves down to rest with no other canopy than the sky; but I never enjoyed a more sound and refreshing rest, though I had a board for my bed, and a billet for my pillow.

An historic inscription...
I...mixed up some vermilion in melted grease, and inscribed, in large characters, on the South-East face of the rock on which we had slept last night, this brief memorial – 'Alexander Mackenzie, from Canada, by land, the twenty-second of July, one thousand, seven hundred and ninety-three.'

Source: W. Kaye Lamb, ed., *The Journals and Letters of Sir Alexander Mackenzie* (Cambridge: Cambridge University Press for the Hakluyt Society, 1970).

grease trails, over which trading partners carried oolichan grease, furs and other goods, were well known and well travelled. A particular grease trail, stretching more than 300 kilometres from the upper reaches of the Fraser River to villages of the Nuxalk (Bella Coola) on the Pacific coast, became a part of Canadian history with the publication of Alexander Mackenzie's diaries in 1801. Mackenzie was led by his Aboriginal guides across otherwise impassable mountains, along a grease trail marked by the travels of countless Aboriginal traders, though his

debt to those who preceded him was not mentioned in his famous inscription on a rock face in Dean Channel commemorating his achievement in being the first European to cross the breadth of the continent.[77]

5. Inuit Innovation

Inuit of the Canadian Arctic are a distinct people, different from other Aboriginal peoples in Canada by virtue of their origins and physical make-up, their language and their technology. For most of their history Inuit, like other Aboriginal peoples, have passed on knowledge to succeeding generations orally. The record of their culture is therefore told in their stories and legends and written in the archaeological remains of the places they have been.

The archaeological record is pieced together from scattered sites where the remains of houses and communities, tools and other implements of daily activity, as well as the bones of the animals that served as food, provide a picture of life in past times. Remains of pollen, seeds and marine life map the advance and retreat of sea ice and vegetation and variations in climate.

Oral history stretching beyond the reach of personal knowledge – "my grandfather's grandfather's time" – is less concerned with precise chronology than with recalling important events that have relevance for people today. Such an approach to the past seeks to explain why things are as they are, thus seeming to merge with a mythical past that is outside ordinary time and yet present today as part of the continuous cycle of death and rebirth.

The archaeological record of the Arctic and oral accounts of Inuit support each other in affirming that Inuit inhabiting what is now Alaska, Canada and Greenland – who speak variations of the common language, Inuktitut – descend from a people who migrated from what is now Alaska to Canada and Greenland. These were the Thule people, whose arrival in Canada archaeologists date at approximately 1000 AD.[78] However, the Thule did not arrive in an empty land, for there were already people living in these northern regions. These earlier people, called Dorset by archaeologists and Tunit by Inuit, were the descendants of an earlier migration, around 2500 BC, that also originated in Alaska or Siberia.[79]

Research on the languages and physical remains of circumpolar peoples shows that Inuit share racial and linguistic characteristics with the Aleuts of the islands lying off the Pacific coast of Alaska as well as with the peoples of northeastern Siberia. The exact times and paths of the various migrations are uncertain, although Inuit legends tell of the encounter between their most recent ancestors and the Tunit. The Tunit were said to be a gentle race, great hunters of seals, with whom Inuit lived for a time before quarrels erupted and they were driven away. The Tunit are thought to have occupied most of the present Inuit

lands, from the coasts of Hudson Bay, through the central and high Arctic, to northern Greenland and Labrador and beyond that to Newfoundland.

The distinguishing characteristic of historical Inuit culture is their way of life, which has enabled them to live year-round on the tundra, north of the tree line, in conditions demanding great resourcefulness, inner strength and quiet patience. Inuit oral tradition links these qualities with the requirements of survival in a harsh environment. Thus, Inuit used snow, animal skins, bone and stone, the elements indigenous to their environment, to fashion "a technology more complex than that of any other pre-industrial culture, which allowed not only an economically efficient but also a comfortable way of life throughout arctic North America".[80] Given the extraordinary and characteristic adaptive powers of Inuit, the following brief sketch of Inuit culture focuses on technical adaptations before sustained European contact.

The movement of Inuit and their ancestors across the northern landscape was propelled by changes in climate and technology that in retrospect seem quite dramatic. It is apparent that there have been successive periods of cooling and warming since 2500 BC, the date ascribed to the earliest sites of human occupation. The Dorset culture flourished between 500 BC and 1000 AD, when the climate was colder than today. Technology uncovered at Dorset sites includes harpoons adapted to hunting walrus and seals in open water, fishing gear, snow knives and ivory plates to protect the runners of sleds (suggestive of hunting on winter ice), and carved soapstone pots and lamps. Decorations on harpoons and other implements, carved wooden masks, and wood, ivory and bone miniatures of animals, birds and human figures suggest a well developed intellectual and ceremonial life, the nature of which is still a mystery.

Rectangular winter houses, large enough to accommodate two to four families, had a central cooking area flanked by sleeping platforms. They were constructed of sod and stone, dug partially into the ground and probably covered with skins.

The eastward movement of the Thule coincided with a marked warm period between 900 and 1200 AD. The normal climate at that time was similar to the rare warm seasons experienced now, and the boundary of the northern forest was 100 kilometres north of its present location. Sea ice was certainly less prevalent across the high Arctic. Archaeologists associate the rapid expansion of the Thule culture across the Arctic to Greenland with the accessibility of large whales, which were important to their economy and for which their hunting technology had been adapted in Alaska. The development of skin floats attached to harpoons made tracking and retrieval of whales during the hunt more efficient. Skin boats – umiaks eight to 10 metres long and kayaks, which accommodate one person – made their appearance in this period.

People of the Thule culture harvested whale, seal, and walrus from the sea and caribou and musk-ox from the land, and they supplemented this diet with

waterfowl and fish. They manufactured clothing, houses and implements from the materials at hand, using skills resident in every family. Houses were a variation on those found in Alaska, built of stones and whale bone rather than logs:

> A Thule winter house is usually an irregular oval in outline, measuring roughly five metres from side to side. At the front is an entrance tunnel built of stone slabs or boulders, and usually sloping downwards to form a cold-trap that prevents cold air from entering the house. The interior of the house is divided into two sections. In the front is a floor area paved with flagstones and with one or two cooking areas in the corners. At the back, raised about 20 centimetres above the floor, is a flagstone platform on which the family members slept side by side, with their feet toward the back wall. Storage lockers are located beneath the sleeping platform, which is covered with a springy mattress made of baleen cut into strips and tied together in loops.... The roof of the house is dome-shaped, held up by rafters of whale jaws and ribs set in the stones of the outer wall and tied together at the top. This frame was covered with skins, then with a thick layer of turf and moss, and, finally, probably thickly banked with snow. Such a house must have been almost perfectly insulated and probably required a ventilation hole in the roof. The house was heated with blubber lamps.[81]

Food and fuel were stored during summer months in caches surrounding winter village sites. The villages typically contained several houses, accommodating perhaps 50 people in all. Hints of the sociability enjoyed in Thule households are found in the etchings on implements, decorations on the women's combs and needle cases, and small carved birds or bird-women figures used in hand games. Toy bows, toy cooking pots, wooden dolls and spinning-tops made from the discs of whale vertebrae are found in all Thule village sites, indicating the attention that must have been given to the care of children.

Technology for harvesting the seals that appeared at breathing holes in the sea ice, together with snow probes and snow knives, which are found often at Thule sites, suggest that hunting on the sea ice was practised in late winter, when periods of daylight lengthened in the high Arctic. Summer hunting involved building fish weirs for trapping and spearing fish and drive fences of piled stones to direct caribou herds to water crossings, where animals could be speared from kayaks. Varied traps were built to catch fox and bear. Thule inventions have been found from Alaska to Greenland. Thus travel, whether by sled or boat, and exchange of technology seem to have been both frequent and relatively easy, indicating the existence of a loose but widespread link among Thule communities.

During the warm period when the Thule people were extending their communities eastward across the Arctic, the Norse were moving westward and estab-

Inuit Snow Houses

Snow houses were in use by Inuit at the time of earliest recorded contact, but their emergence as a feature of Inuit life cannot be dated because melted snow houses leave no remains to be excavated.

Construction of a snow house requires intimate knowledge of the properties of snow, appropriate tools for preparing the building blocks, and skill in engineering. Edmund Carpenter, an ethnographer of Inuit culture, describes the construction as a personal, even spiritual experience as well as a feat of technology:

> An Eskimo* doesn't mould his igloo from the outside looking in, but from the inside looking out. Working from the centre, he builds a series of concentric circles, tapering upward conically. When the keystone at the apex has been set in place, Eskimo and structure are one. Only then does he cut the small hole at the base through which he crawls – in effect, doffing his igloo.**

A snow house can be constructed by an accomplished builder in a few hours with readily available materials. It offers the minimum resistance to Arctic winds. Snow has insulating qualities, making the dwelling warmer than a tent and equally suited to the lifestyle of a mobile people. The invention of the stone lamp to burn the blubber of sea mammals was essential to provide light and a small amount of heat in fully enclosed snow houses. Snow houses in turn made it possible for people to live on the sea ice and harvest seals during the winter, thereby opening large areas of the central Arctic to human habitation in harsh climatic conditions.***

* 'Eskimo' is no longer used because of its origin as a non-Inuit term with negative connotations. The word 'Inuit' means 'the people' (singular, Inuk) and is the term by which Inuit refer to themselves. (Pauktuutit, *The Inuit Way: A Guide to Inuit Culture* [Ottawa: Pauktuutit and National Library, 1990], p. 4.)

** Carpenter, *Eskimo Realities* (cited in note 83), p. 24.

*** Ernest S. Burch Jr., "The Eskaleuts – A Regional Overview" and "The Caribou Inuit", in *Native Peoples: The Canadian Experience* (cited in note 43), p. 112; McGhee, *Canadian Arctic Prehistory* (cited in note 79), p. 43.

lishing colonies in Greenland. Inuit and Norse stories seem to agree that the two peoples came into contact and conflict, perhaps as a result of the Thule moving southward. Other evidence of intercultural contact is found in iron artifacts at Thule sites, some of which are thought to be products of trade with the Norse of Greenland.

When Europeans began to have contact with Inuit in the eighteenth and nineteenth centuries the commonalities of Thule culture had given way to regional variations that are now explained as adaptations to a 'little ice age' that began to set in around 1200 AD. The tree line receded southward by a hundred kilometres. The re-establishment of sea ice in the high Arctic made settlement there less feasible. In some regions the economy based on whaling was replaced in the harsher winter seasons by dependence on ice-loving marine mammals, especially the small ringed seals that made breathing holes in the sea ice. Communities became smaller and more mobile than they had been earlier, and technology adapted to different harvesting conditions – either devised anew or reminiscent of Dorset innovations – assumed greater prominence.

The snow house or igloo, clothing made of caribou, seal, and other animal skins, and the kayak are elements of technology used widely by Inuit in the early years of European contact. The making of snow houses and clothing are described in the accompanying boxes.

The kayak, engineered of driftwood and animal skins, was ideally suited to marine hunting and has been adopted virtually without change in design for modern international sporting competition. These familiar expressions of inventiveness have taken on great significance as symbols of Inuit adaptability.

Inuit of different regions clearly share many characteristics rooted in their common ancestry. Variations in culture apparently derive from adaptations to local conditions, whether created by changing climate or intercultural contact. Inuit oral history has received little attention in reconstructing the story of the Inuit past, with the result that written reports are erratic in coverage and rely heavily on archaeological finds and on European or southern Canadian perspectives more generally.

A publication of the Canadian Museum of Civilization suggests that distinct Inuit culture groups can be identified with nine regions: Labrador, Arctic Quebec, Southern Baffin Island, Northern Baffin Island and Foxe Basin, Southampton Island, Western Hudson Bay and the Barren Grounds, Central Arctic Coast, Mackenzie Delta, and the High Arctic.[82] These regions are represented on the accompanying map (Figure 4.1). The culture of each of these groups has been shaped by the land and its particular historical experience.

The Labrador Inuit have had the longest sustained contact with European whalers and traders and, from the 1770s, Moravian missionaries. Little is known of the pre-contact culture of Inuit of northern Quebec. Inuit of the high Arctic had disappeared by the time of European contact, possibly starved out or forced to move to open-water areas in northern Greenland. Inuit of southern Baffin Island maintained their traditional way of life until the mid-1800s when European whalers and traders arrived and introduced rapid change. People of the Igloolik area in northern Baffin Island abandoned whaling culture and permanent winter houses for snowhouse villages on the sea ice and dependence on



FIGURE 4.1
HISTORICAL INUIT OCCUPATIONS OF ARCTIC CANADA

Source: Adapted, with the permission of the Canadian Museum of Civilization, from Robert McGhee, *Canadian Arctic Prehistory* (Ottawa: Canadian Museum of Civilization, 1990).

Inuit Clothing

Inuit women used caribou and seal skins in particular for the manufacture of clothing suited to the rigorous demands of the Arctic climate. Caribou hide was preferred for parkas and leggings. The skin, when worked, was light and soft and had dense, upright hairs, which provided ideal insulation against extreme cold. The seal skin is water repellant and was used for boots, which had to be waterproof, especially in the wet summer season.

> The transformation of animal skins into clothing is a complex process; simply skinning an animal and using its hide as protection from the cold produces an object that, on drying, becomes as stiff as a board and has less insulation.... The skin must be processed chemically...cleaned, dried, smoked and softened to produce a fur or leather from which clothing can be cut...
>
> [Arctic Inuit] brought with them [to the New World] patterns of tailored clothing that were developed in Asia during the previous few thousand years. These patterns are similar to those brought to Europe...from the Asiatic steppes about 5,000 years ago... Working with stone knives, bone needles and sinew thread, Inuit women made clothing that is still considered by many Arctic travellers to be finer than any produced by the weaving mills or the chemical factories of the south...

Source: Robert McGhee, *Ancient Canada* (Hull: Canadian Museum of Civilization, 1989), pp. 70-71.

walrus, fish and caribou. They remained independent of European trade until the late 1800s.

The Sadlermiut of Southampton, said to have spoken a strange dialect, were wiped out by disease in 1900. Their rich hunting grounds were occupied by Inuit of the northwestern coast of Hudson Bay. By the 1800s, Inuit of the Barren Grounds inland from the west coast of Hudson Bay had adopted a way of life based almost entirely on harvesting fish and caribou. They seldom, if ever, visited the coast to practise the marine culture of their ancestors. Occupancy of this territory had shifted over the centuries between ancestral Inuit and Dene, with Inuit moving south in colder periods and Dene moving onto the barren grounds in pursuit of rich caribou herds in summer and retreating to the forests in winter. As the tree line moved north or receded, so did the boundary between Dene and Inuit territory.

Copper Inuit and Netsilik of the Central Arctic Coast split their year between the interior, where small bands fished and hunted caribou and musk oxen, and the coast where they gathered in groups of up to a hundred, building snow house villages on the sea ice, where they depended on seals harpooned at breathing holes. Copper Inuit and Netsilik worked copper and soapstone found in their region to make tools, lamps and pots that they traded as far west as northern Alaska.

Inuit of the Mackenzie Delta in the western Arctic were separated from their more easterly relations by a stretch of abandoned coast along the southern shore of the Beaufort Sea. They resembled Alaskans in their way of life, spending their winters in large winter houses made of driftwood, and hunting beluga whales in summer. Excavations at the village of Kittigazuit in the Mackenzie Delta indicate that up to a thousand people lived there, participating in a whaling economy that persisted for at least 500 years.

The rich variety of adaptations displayed in these regional cultures supports the assessment of contemporary Inuit that, as a people, they have always been resourceful and inventive. The adaptation of carving to the demands of the modern market place is a contemporary expression of sensibility and skill honed with long practice. Everyone in traditional Inuit society was expected to acquire the skills that turned the raw materials of the environment into implements for survival. Going beyond that practical obligation, Inuit turned their hands and imaginations to creating graceful and symbolic objects that established a connection between the human spirit and the spirits that lived in the elements of their environment.

In the twentieth century ethnographers and art collectors have captured and recorded glimpses of the spirit that infused traditional Inuit culture. Edmund Carpenter, writing in 1973, spoke in the following terms of the Aivilimiuk Inuk who taught him much about Inuit art and philosophy:

> Ohnainewk held a baby walrus tooth in his palm, turned it slightly, and there, unmistakably! Ptarmigan almost burst through the surface. As he cut lightly here, indented there, he spoke softly, diffidently; he was not passive, yet his act of will was limited, respectful: respectful to the form that was given.[83]

Knud Rasmussen, a Danish ethnographer who assembled extensive accounts of Inuit life in the early part of this century, recorded and translated the poetry of Iglulingmiut, from which we quote two examples.

> The great sea
> Has set me adrift,
> It moves me as the weed in a great river,
> Earth and the great weather

Move me,
Have carried me away
And move my inward parts with joy.

...

I will walk with leg muscles
which are strong
as the sinews of the shins of the little caribou calf.
I will walk with leg muscles
which are strong
as the sinews of the shins of the little hare.
I will take care not to go towards the dark.
I will go towards the day.[84]

Love of the land and the will to face the challenges of an arduous life with optimism, as expressed in these poems, are aspects of culture that the Inuit continue to maintain and value.

6. Conclusion

The preceding accounts were chosen in part on the basis of the geographic regions in which the Aboriginal nations described are found. As the accounts illustrate, diversity marked Aboriginal cultures and forms of social organization in the pre-contact period. Some Aboriginal nations were able to accumulate wealth while others were not; some were more hierarchical than others; some had matrilineal rules of descent while others were patrilineal or bilateral; and some developed sophisticated confederal structures that grouped several nations together. That these patterns should vary by geographic region is not, of course, accidental, since the physical environment played a significant role in influencing culture and social organization.

Although these social, cultural and political differences are substantial, the accounts also suggest patterns that are shared by many, if not all, Aboriginal nations. These similarities begin with understandings of a people's origins, with emphasis on the act of creation. In these accounts, as we have seen, people are placed on the earth by the Creator along with, and in an equal relationship to, other natural elements that have also been endowed with the spark of life and that are therefore worthy of respect.

In the Mi'kmaq creation stories, for example, human beings develop from the natural world (a leaf, the foam of an ocean wave, the spark of a fire) and derive much of their knowledge as well as their subsistence from it. Unlike most non-Aboriginal human-centred philosophies, Aboriginal belief systems are cosmocentric, emphasizing the whole of the cosmos, in which human beings are

but a small part. They hold that many parts of nature have souls or spirits. Hence there is a reverence for the natural order and a sense of wonder before natural phenomena such as the spark of fire, the sun in Blackfoot cosmology, or the great sea of the Inuit poem.

The accounts often reveal elaborate social structures built around the nuclear and extended family. These are grouped into a band, clan, district or community all of which, in turn, may be part of a larger nation that may itself belong to a confederacy of many nations and to a larger language group. Governance is usually decentralized, with local units coming together or sending representatives to the councils of the nation or confederacy. In the councils of decision making, individuals are generally equal, and deliberations typically continue until consensus is reached. Leaders thus tend to guide, counsel and speak on behalf of the people; they typically do not exercise the authority to make unilateral decisions or to impose their will. Where conflict arises, an effort is made to bring the contending parties together and to find a middle ground. This is in keeping with an ethic that respects diversity and acknowledges that there are many different ways to accomplish a particular objective.

The accounts also reveal the ultimate importance to Aboriginal societies of their spiritual relationship to the land. This arises not only because of dependence on the natural world for life itself, but also out of the belief that human beings were placed on the earth at Creation and given special responsibilities to serve as stewards of the natural environment. Through a very long history of living in close harmony with the environment, adjusting as required to changing social and environmental conditions, Aboriginal peoples accumulated an enormous amount of knowledge and wisdom and passed it on orally from generation to generation.

Across the ocean, the various peoples of Europe also showed themselves to be as diverse as Aboriginal peoples. Their cultures and social structures developed along entirely different lines, however – a story far more familiar to most Canadians than that of Aboriginal peoples.

Between 900 and 1400 AD, much of Europe had evolved into highly stratified societies involving a rigid, hereditary social class structure. Monarchs were at the apex of the hierarchy, but a powerful nobility existed as well. They were in charge of vast estates requiring large numbers of serfs to contribute their labour or taxes in exchange for tenure on a small plot of land and military protection.

By 1400, however, the feudal system was clearly in transition:

> Throughout Western Europe, in the early "modern" age, roughly from 1400 to 1600, societies were in transition from a social order characterized by agricultural self-sufficiency and rigid hierarchies to a new order in which trade and impersonal market-based relationships

> were becoming increasingly important. Although the traditional landowning elite persisted, in cities and towns new leaders emerged whose wealth came from organizing the trade that linked far-flung territories. This new elite was allied with increasingly powerful monarchs whose attempts to constrain the nobles led to the emergence of nation-states, wherein government bureaucracies rather than individual landlords made the rules that ordinary people were forced to obey. Within the cities, too, lived the intellectuals, whose growing curiosity about how the universe worked led them away from the teachings of the church and toward lines of inquiry that produced both the knowledge and some of the incentive to search for undiscovered lands.
>
> In this age of transition Europe was a complex continent. Not only did incredible opulence sit side by side with grinding poverty, but religious devotion also co-existed with greed and bloody warfare; humanist interest in scientific advance and new forms of artistic and architectural expression co-existed with religious and racial bigotry; and a willingness to accept female monarchs co-existed with the profound oppression of women in society at large. These contradictory tendencies existed as much within European states as between them.[85]

The monarchs of the major European countries were becoming increasingly powerful during this time, forging alliances with traders and intellectuals in urban areas while becoming increasingly ascendant over the nobles and their fiefdoms in the countryside. The formation of standing armies under royal control, a council of ministers responsible to the monarch rather than to the lords, centralized bureaucracies to implement royal decrees and courts to enforce them – these were all important features of the new political order.

One of the early accomplishments was to facilitate the expansion of trade, both internally by overcoming the local taxation and extortion regimes of nobles and princes, and externally by countering marauders on the high seas. Taken together, these changes set the stage for European expansion overseas:

> The decay of the old feudal order and its replacement by a social order characterized by centralized and competing monarchical states, increasing emphasis on trade, and growing intellectual curiosity made Europe the likely candidate for overseas expansion. Population pressures provided monarchs with an incentive to search for new resources and later to support the founding of colonies. The trade-oriented capitalists of the rising cities provided encouragement and finance for such ventures. Finally, the Renaissance intellectuals provided both the theoretical speculations and the technological

> advances that made the search for new areas of the globe appear possible and desirable. In sum, the interests of nation-building trade, and science conspired to create an "age of discovery."[86]

Of course, European expansion into Africa, Asia and the Americas was not unprecedented, for at the same time other far-flung empires dominated by Turks, Hindus, Muslims, Islamics and Chinese existed. For Europe, too, colonial ventures were well-established features of European society several centuries before the first recorded trans-Atlantic voyages of 'discovery' to the 'new world' at the end of the fifteenth century. Trading posts, usually in the form of tiny enclaves inside Muslim cities, had been established during the Crusades and were thriving by the time of Columbus's first voyage in 1492. The Portuguese had also been settling colonies of merchants in West Africa and the Coromandel Coast of western India.[87]

The motivations of the early European explorers and settlers are, according to one source, "difficult to know and impossible to generalize. In most cases one thing led to another, and initial intentions changed according to new circumstances".[88] Portugal's expansion into northwestern and western Africa was driven initially by the crusade against Islam but was then attracted by the profits to be made from the discovery of gold dust, ivory and slaves. By the time Portuguese explorers found an ocean route to the Indies via the Cape of Good Hope, the prospect of acquiring a direct trade route for eastern spices and manufactured goods – thereby countering the Venetian overland trade – became the dominant motive.

Similarly with Spain in the Americas, the original motivation for Columbus's voyage was to sail west in search of a northwest passage to India. Once silver and other precious metals were found, however, and it became clear that large haciendas and plantations could be established with forced indigenous and imported labour, economic considerations became increasingly important.

It is significant that Spain and Portugal were at the forefront of the first western European expeditions to the Americas. Having just completed a centuries-long struggle to free themselves from the Moors, the people of Spain and Portugal were driven by nationalism and religious fervour to a far greater extent than other European nation-states with less tragic recent histories. Without the Moors as opponents, the discovery of the New World seemed to offer Spain an outlet for adventure and aggression, while the ease of subsequent Spanish conquests indicated, to the Europeans, the superiority of their civilization and religion.[89]

The 1493 division of the New World between Spain and Portugal by the Pope was ostensibly to secure Christian conversion, but in fact, the papal donation justified in Spanish minds their acquisition of the lands and resources of the peoples found in Central and South America. Thus, for a generation they

simply extracted gold, silver and slaves from the indigenous Americans – another infidel people not unlike the Moors in their estimation – using military compulsion, often with gruesome results. The twin notions of peaceful trade under treaties and the assimilation of the *Indios* into Spanish society found their way into official Spanish policy only in the 1550s. They were still poorly realized ideals two centuries later.

The earliest Basque, Breton, French and English contacts in North America were aimed initially at extracting fish and other resources from the sea, rather than gold or silver from the ground, and involved considerably less use of force. This early pattern of relatively peaceful and incidental contact gave way by the early seventeenth century to a new system of relations based on treaties and trade with the indigenous inhabitants. In the next chapter, we describe the essential characteristics of this early, often co-operative, relationship.

Notes

1. *Calder* v. *Attorney-General of British Columbia*, [1973] Supreme Court Reports (hereafter S.C.R.) 313 at 328 per Judson J.
2. Robert Gray, "A Good Speed to Virginia", quoted by H.C. Porter, *The Inconstant Savage: England and the North American Indian 1500-1600* (London: Duckworth, 1979), p. 357.
3. *St. Catharines Milling and Lumber Company* v. *the Queen* (1887), 13 S.C.R. 577 at 596-597.
4. Locke adds the criterion that "there is enough, and as good left in common for others". John Locke, *Two Treatises of Government*, ed. Peter Laslett (Cambridge: Cambridge University Press, 1970), II, p. 27.
5. James Tully, "Aboriginal Property and Western Theory: Recovering a Middle Ground", in *Property Rights*, ed. Ellen Frankel Paul, Fred D. Miller, Jr. and Geoffrey Paul (Cambridge: Cambridge University Press, 1995), p. 159.
6. This decision was the third and most important of the cases referred to as the Marshall Trilogy after the U.S. Supreme Court chief justice under whose leadership they were handed down. In *Johnson* v. *M'Intosh*, 21 U.S. (8 Wheaton) 543 (1823), the doctrine of Indian title – later adopted in Canada almost in its entirety – was articulated. In *Cherokee Nation* v. *Georgia*, 30 U.S. (5 Peters) 1 (1831), the phrase "domestic dependent nations" was first coined to describe the self-governing status of Indian tribes within the borders of the United States. In *Worcester*, aside from debunking the discovery doctrine, Chief Justice Marshall fleshed out his vision of tribal self-government in a more complete and concrete way. A leading text describes that vision as postulating "largely autonomous tribal governments subject to an overriding federal authority but essentially free of state control." See Charles F. Wilkinson, *American Indians, Time, and the Law: Native Societies in a*

Modern Constitutional Democracy (New Haven: Yale University Press, 1987), p. 24. The *Worcester* decision is still an important case. Since 1970, state and federal courts in the United States have cited it more than any other case, with the exception of three seminal non-Indian constitutional decisions from the same Marshall court (Wilkinson, p. 159, note 126).

7. 31 U.S. (6 Peters) 515 at 542-543.

8. Wampum was made traditionally of quahog (clam) shells, drilled and threaded into strings or woven into belts. Wampum of various colours carried different symbolic meanings. Wampum strings and belts were used as aids to memory and to validate the authority of persons carrying messages between communities and nations.

9. Contemporary place names are used throughout for ease of identification.

10. The Iroquoians on the St. Lawrence had been replaced by Algonquins by the time of Samuel de Champlain's explorations in 1603.

11. Marianne Mithun, "The Proto-Iroquoians: Cultural Reconstruction from Lexical Materials", in *Extending the Rafters: Interdisciplinary Approaches to Iroquoian Studies*, ed. Michael K. Foster, Jack Campisi and Marianne Mithun (Albany, N.Y.: State University of New York Press, 1984), p. 264.

12. Details of Iroquois society are drawn from Lewis Henry Morgan, *League of the Iroquois* (Secaucus, N.J.: The Citadel Press, 1962), book II, chapter VI, pp. 313-320 and following.

13. Other dates are sometimes cited for the Tuscarora adoption; 1715 is the date given in Morgan, *League of the Iroquois*, p. 24.

14. William N. Fenton, "Structure, Continuity, and Change in the Process of Iroquois Treaty Making", in *The History and Culture of Iroquois Diplomacy: An Interdisciplinary Guide to the Treaties of the Six Nations and Their League*, ed. Francis Jennings, William N. Fenton, Mary A. Druke and David R. Miller (Syracuse, N.Y: Syracuse University Press, 1985), p. 7.

15. For a discussion of the role of another Iroquoian nation, the Wendat (Huron) in the fur trade, see Chapter 5.

16. See Paul Williams and Curtis Nelson, "Kaswentha", research study prepared for the Royal Commission on Aboriginal Peoples [RCAP] (1995), for a discussion of treaties between the Haudenosaunee and colonial powers. For information about research studies prepared for RCAP, see *A Note About Sources* at the beginning of this volume.

17. In 1987, the U.S. Senate passed a resolution acknowledging the influence of the Haudenosaunee system of government on U.S. constitutional development, but the extent of that influence is debated. See Elizabeth Tooker, "The United States Constitution and the Iroquois League", *Ethnohistory* 35/4 (Fall 1988), pp. 305-336; Donald A. Grinde, Jr., *The Iroquois and the Founding of the American Nation* (San Francisco: The Indian Historian Press, 1977); and Bruce E. Johansen, *Forgotten Founders: How the American Indian Helped Shape Democracy* (Boston: The Harvard Common Press, 1982).

18. See Marianne Mithun, "The Proto-Iroquoians: Cultural Reconstruction from Lexical Materials", and James V. Wright, "The Cultural Continuity of the Northern Iroquoian-Speaking Peoples", in *Extending the Rafters* (cited in note 11).

19. Dean R. Snow, "Iroquois Prehistory", in *Extending the Rafters* (cited in note 11).

20. Snow, "Iroquois Prehistory", p. 256.

21. From 25 June to 6 July 1994, Chief Jacob Thomas gave a public recital of the Great Law of Peace, the foundation of Haudenosaunee law and government. Spoken in English, the recital took place at the Six Nations Territory near Brantford, Ontario, over a 12-day period. It was recorded on videotape, a copy of which is in the archives of the Royal Commission. Access to the videotape can be obtained through the National Archives of Canada.

22. Transcripts of the Commission's hearings are cited with the speaker's name and affiliation, if any, and the location and date of the hearing. See *A Note About Sources* at the beginning of this volume for information about transcripts and other Commission publications.

23. According to tradition, the birthplace of the Peacemaker was the present location of the Tyendinaga Territory on the Bay of Quinte, a place selected by Joseph Brant for resettlement of Mohawks who were allies of the British during the American War of Independence.

24. The name Deganawidah is used throughout some accounts of the founding of the Iroquois Confederacy. The Haudenosaunee themselves use his name only in ceremonies. In deference to this convention, we use the preferred title, the Peacemaker, in this account.

25. Under the articles of the Great Law, anyone speaking while holding wampum was under the strictest obligation to speak the truth. See Michael K. Foster, "Another Look at the Function of Wampum in Iroquois-White Councils", in *The History and Culture of Iroquois Diplomacy* (cited in note 14).

26. The Iroquois words evidently do not have exact equivalents in English. "Righteousness, Health and Power" are found in Paul A.W. Wallace, *White Roots of Peace* (Santa Fe, New Mexico: Clear Light Publishers, 1994), pp. 39-40, a publication endorsed by prominent chiefs of the Haudenosaunee. Arthur C. Parker refers to "the Good News of Peace and Power" in *Parker on the Iroquois*, ed. William N. Fenton (Syracuse: Syracuse University Press, 1968), Book III: The Constitution of the Five Nations, p. 72. Jake Thomas, introduced earlier in this chapter, translated the principles as "Peace, Power and Righteousness" in his testimony before the Commission at Akwesasne on 3 May 1993.

27. Wallace, *White Roots of Peace*, p. 39-40.

28. *Parker on the Iroquois* (cited in note 26), Book III, p. 9.

29. *Parker on the Iroquois*, p. 9.

30. Consensus meant that all the council agreed to support the decision taken. It did not necessarily mean that all nations were unanimous in their opinion. Rather, for

the good of the community, members would refrain from pressing dissenting views, knowing that in future councils their commitment to the common good would win respect and deference to their opinions.

31. John A. Noon, *Law and Government of the Grand River Iroquois* (New York: Viking Fund Publications in Anthropology, Number 12, 1949), p. 39, as quoted in Thomas S. Abler, "The Kansas Connection: The Seneca Nation and the Iroquois Confederacy Council", in *Extending the Rafters* (cited in note 11), p. 83.

32. The ceremony for installing chiefs is called a condolence because the death of the chief who has vacated the position must be properly acknowledged. Members of his nation, clan and family who are grieving must be comforted and restored to a good mind through the ministrations of the members of the 'clear-minded' side of the council – those who have not suffered the same loss. Only when this has been accomplished are the mourners urged to look up and see that the sun still shines, there is work to be done, and the candidate for chief is standing by, ready to take the place that has been left vacant.

33. Fenton, "Structure, Continuity, and Change" (cited in note 14), p. 13.

34. *Parker on the Iroquois* (cited in note 26), Book III, p. 37.

35. Morgan, *League of the Iroquois* (cited in note 12), p. 81, is not definite about whether the clan system predated the founding of the Great Law. Chief Jake Thomas was clear on this point: "We talk about the clan system. That's where it originated, from the time of the Creation." (Akwesasne, 3 May 1993).

36. Wallace, *White Roots of Peace* (cited in note 26), p. 72.

37. Fenton, "Culture, Continuity, and Change" (cited in note 14), p. 12.

38. See Fred Voget, "Anthropological Theory and Iroquois Ethnography: 1850 to 1970", in *Extending the Rafters* (cited in note 11), p. 350; and Morgan, *League of the Iroquois* (cited in note 12), pp. 330-334.

39. Chief Leon Shenandoah, Tadodaho [Atotarho], "Foreword", in Wallace, *White Roots of Peace* (cited in note 26), pp. 13-14.

40. Fred W. Voget: "Anthropological Theory and Iroquois Ethnography: 1850 to 1970" in Foster et al., *Extending the Rafters* (cited in note 11), p. 347.

41. William N. Fenton, "Foreword", in Morgan, *League of the Iroquois* (cited in note 12), p. xvi.

42. Fenton, "Structure, Continuity, and Change" (cited in note 14), p. 6.

43. William E. Farr, *The Reservation Blackfeet, 1882-1945: A Photographic History of Cultural Survival* (Seattle: University of Washington Press, 1984), p. 4. The term Blackfeet is common in the United States, but in Canada the preferred usage is Blackfoot. See Hugh A. Dempsey, "The Blackfoot Indians", in *Native Peoples: The Canadian Experience*, ed. R. Bruce Morrison and C. Roderick Wilson (Toronto: McClelland and Stewart Limited, 1986).

44. John C. Ewers, *The Horse in Blackfoot Indian Culture*, Bureau of American Ethnology Bulletin 159 (Washington: Smithsonian Institution, 1955), pp. 2-19, traces the introduction of the horse to the northern plains. Horses were introduced to Mexico by the Spanish in the middle of the sixteenth century and spread gradually from one indigenous nation to another.

45. E.A. Corbett, *Blackfoot Trails* (Toronto: The Macmillan Company of Canada Limited, 1934), p. 4.

46. The concept of interrelatedness is discussed in Leroy Little Bear, "The Relationship of Aboriginal People to the Land and the Aboriginal Perspective on Aboriginal Title", research study prepared for RCAP (1993).

47. George Bird Grinnell, *Blackfoot Lodge Tales* (published originally in 1892; reprinted, Williamstown, Massachusetts: Corner House Publishers, 1972), pp. 143-144 [footnote omitted].

48. Little Bear, "The Relationship of Aboriginal People to the Land" (cited in note 46).

49. Little Bear, "The Relationship of Aboriginal People to the Land".

50. Mike Mountain Horse, *My People the Bloods*, ed. Hugh A. Dempsey (Calgary and Standoff, Alberta: Glenbow-Alberta Institute and Blood Tribal Council, 1979), p. 53.

51. Andrew Bear Robe, "The Historical, Legal and Current Basis for Siksika Nation Governance, Including its Future Possibilities Within Canada", research study prepared for RCAP (1994).

52. Nomadic means wandering or roaming, which is misleading, since plains people systematically harvested the land in cycles and moved from site to site, from season to season, to harvest but also to conserve natural resources. Perhaps a more appropriate word might be 'mobile', since their homes and material goods were completely portable.

53. In later attempts to domesticate the plains buffalo when it was almost extinct, those that were rounded up and placed in captivity died. The opinion was expressed at the time that the buffalo, unused to captivity, died of a broken spirit. The wood buffalo, on the other hand, fared much better in captivity.

54. Little Bear, "The Relationship of Aboriginal People to the Land" (cited in note 46).

55. The words of an old plains Indian of the Omaha Nation lamenting the life he and his people had once known along the western banks of the Missouri, in what is now Nebraska. Peter Nabokov, ed., *Native American Testimony: A Chronicle of Indian-White Relations from Prophecy to the Present, 1492-1992* (New York: Viking Penguin, 1991), p. 184.

56. Beatrice Medicine, "'Warrior Women': Sex Role Alternatives for Plains Indian Women", in *The Hidden Half: Studies of Plains Indian Women*, ed. Patricia Albers and Beatrice Medicine (Lanham, Maryland: University Press of America, 1983), pp. 267-280.

57. Symmes C. Oliver, *Ecology and Cultural Continuity as Contributing Factors in the Social Organization of the Plains indians* (Berkeley: University of California Press, 1962), p. 62.

58. Bear Robe, "The Historical, Legal and Current Basis for Siksika Nation Governance" (cited in note 51).

59. This material draws on information in Bear Robe, "The Historical, Legal and Current Basis for Siksika Nation Governance".

60. Contrary to some accounts, gifts were not for dowry purposes, but rather signified the establishment of a new and permanent relationship between families.

61. Bear Robe, "The Historical, Legal and Current Basis for Siksika Nation Governance" (cited in note 51). However, a person who took his punishment well usually had his property replaced.

62. Oliver, *Ecology and Cultural Continuity* (cited in note 57), p. 62.

63. John C. Ewers, *The Blackfeet: Raiders on the Northwestern Plains* (Norman: University of Oklahoma Press, 1958), p. 97.

64. Marie Smallface Marule, "Traditional Indian Government: Of the People, by the People, for the People", in *Pathways to Self-Determination, Canadian Indians and the Canadian State*, ed. Leroy Little Bear, Menno Boldt and J. Anthony Long (Toronto: University of Toronto Press, 1984), pp. 36-37.

65. Bear Robe, "The Historical, Legal and Current Basis for Siksika Nation Governance" (cited in note 51).

66. Dempsey, "The Blackfoot Indians" (cited in note 43), p. 388.

67. Oliver, *Ecology and Cultural Continuity* (cited in note 57), pp. 58-59.

68. David Thompson was a British Hudson's Bay Company trader who arrived in Blackfoot territory in 1787 and lived near the Blackfoot for many years. See Bear Robe, "The Historical, Legal and Current Basis for Siksika Nation Governance" (cited in note 51).

69. Corbett, *Blackfoot Trails* (cited in note 45), pp. 6-7.

70. In 1867 an historic peace was made between the Cree and Blackfoot at Peace Hills, near Wetaskiwin on the Battle River. Hostilities broke open again when the Cree made incursions into Blackfoot lands and continued until Crowfoot and Poundmaker were able to make peace again in the 1870s.

71. The Great Plains extended south to Texas and northeast and northwest to northern Saskatchewan. The number of Great Plains Indians was estimated at 200,000 around 1800, with the Blackfoot Confederacy numbering 30,000. See Bear Robe, "The Historical, Legal and Current Basis for Siksika Nation Governance" (cited in note 51).

72. Olive P. Dickason, *Canada's First Nations: A History of Founding Peoples from Earliest Times* (Toronto: McClelland and Stewart, 1992), p. 63.

73. Philip Drucker, *Indians of the Northwest Coast*, Anthropological Handbook Number Ten (New York: McGraw-Hill Book Company, Inc., for the American Museum of Natural History, 1955), pp. 3-4.

74. Robert McGhee, *Ancient Canada* (Ottawa: Canadian Museum of Civilization, 1989), p. 132; Peter Macnair, "From Kwakiutl to Kwakwa̲ ka̲'wa̲kw", in *Native Peoples: The Canadian Experience* (cited in note 43), p. 502.

75. McGhee, *Ancient Canada*, p. 128.

76. Margaret Seguin, "Lest There Be No Salmon: Symbols in Traditional Tsimshian Potlatch", in *The Tsimshian, Images of the Past: Views for the Present*, ed. Margaret Seguin (Vancouver: University of British Columbia Press, 1984).

77. In the 1970s there was extended discussion between Parks Canada, the British Columbia government and communities represented by the Union of British Columbia Indian Chiefs regarding the designation of the Alexander Mackenzie Grease Trail as a conservation and recreational corridor. First Nations communities located in or near the proposed corridor were interested in having acknowledgement of the contribution of their forebears to mapping of the continent. They were equally interested in protecting the terrain from uncontrolled incursions by logging and development companies. The Alexander Mackenzie Heritage Trail, which includes the grease trails, was designated in 1987 as a heritage trail under the *Heritage Conservation Act* and as a designated forest recreation trail under the *Forest Act*. Consideration is being given to expanding the official name of the trail to incorporate the concept of the grease trail. B.C. Ministry of Forests, Ministry of Tourism and Ministry Responsible for Culture, *Alexander Mackenzie Heritage Trail: Management Plan for Trail Portions on Public Forest Lands*, Appendix 1, "Memorandum of Agreement" (9 June 1987, published June 1993).

78. The Thule people are named after a Greenland site where the archaeological remains of a Thule camp were first excavated.

79. Robert McGhee, *Canadian Arctic Prehistory* (Ottawa: Canadian Museum of Civilization, 1990), p. 22. Much of the general information in the next few pages is drawn from this work.

80. McGhee, *Canadian Arctic Prehistory*, p. 79.

81. McGhee, *Canadian Arctic Prehistory*, p. 95.

82. McGhee, *Canadian Arctic Prehistory*, pp. 105-106.

83. Edmund Carpenter, *Eskimo Realities* (New York: Holt Rinehart and Winston, 1973), p. 61.

84. Knud Rasmussen, "Intellectual Culture of the Iglulik Eskimos", in *Report of the Fifth Thule Expedition, 1921-24* VII/1 (1929, reprinted by AMS Press Inc., 1976), pp. 123, 166.

85. Margaret Conrad, Alvin Finkel and Cornelius Jaenen, *History of the Canadian Peoples: Beginnings to 1867*, volume 1 (Toronto: Copp Clark Pitman Ltd., 1993), p. 49.

86. Conrad, Finkel and Jaenen, *History of the Canadian Peoples*, p. 76.

87. D.K. Fieldhouse, *The Colonial Empires: A Comparative Survey from the Eighteenth Century* (London: Weidenfeld and Nicolson, 1966), p. 3.

88. Fieldhouse, *The Colonial Empires*, p. 5.

89. Thomas R. Berger, *A Long and Terrible Shadow: White Values, Native Rights in the Americas, 1492-1992* (Toronto/Vancouver: Douglas & McIntyre, 1991), pp. 2, 13.

5

Stage Two: Contact and Co-operation

Following centuries of separate social, cultural and political evolution, Aboriginal and non-Aboriginal societies entered into a period of sustained and intense interaction that was to have profound and long-lasting effects on both. Although a few Aboriginal persons were, willingly or unwillingly, taken to Europe over the years, contact occurred almost exclusively on North American soil as transplanted Europeans began to arrive in ever-increasing numbers after the late 1400s.

First contacts between Aboriginal peoples and Europeans were sporadic and apparently occurred about a thousand years ago when Norsemen proceeding from Iceland and Greenland are believed to have voyaged to the coast of North America. There is archaeological evidence of a settlement having been established at L'Anse aux Meadows on the northern peninsula of what is now Newfoundland. Accounts of these early voyages and of visits to the coast of Labrador are found in many of the Norse sagas. They mention contact with the indigenous inhabitants who, on the island of Newfoundland, were likely to have been the Beothuk people, and on the Labrador coast, the Innu.

These early Norse voyages are believed to have continued until the 1340s, and to have included visits to Arctic areas such as Ellesmere and Baffin Island where the Norse would have encountered Inuit. Inuit legends appear to support Norse sagas on this score. The people who established the L'Anse aux Meadows settlement were agriculturalists, although their initial economic base is thought to have centred on the export of wood to Greenland as well as trade in furs. Conflict with Aboriginal people likely occurred relatively soon after the colony was established. Thus, within a few years of their arrival, the Norse appear to have abandoned the settlement and with it the first European colonial experiment in North America.[1]

Further intermittent commercial contacts ensued with other Europeans, as sailors of Basque, English, French and other nationalities came in search of natural resources such as timber, fish, furs, whale, walrus and polar bear. Little is known of this very early period of contact. By the late 1400s, explorers were commissioned to find a route to the Orient by sailing west from Europe, thus providing an additional motive for European contact with North American Aboriginal peoples. These subsequent explorations included the voyages of Christopher Columbus to several islands in the Caribbean sea and those of John Cabot, who was seeking a more northerly route. Cabot's voyages began as early as 1494, and by 1497 he landed in a place he referred to as New Found Land.[2]

These first voyages of natural resource exploitation and exploration developed into initially brief, but then longer, encounters with Aboriginal peoples. By the time of Cartier's visits in the 1530s to the Maritimes, Stadacona (Quebec City) and Hochelaga (Montreal), patterns of trade between the newcomers and the indigenous inhabitants were already becoming established features of the relationship between them.

Europeans initially came armed with assumptions similar to those of the Spanish further south. Thus, the letters patent issued to John Cabot by King Henry VII gave the explorer instructions to seize the lands and population centres of the territories "newely founde" in order to prevent other, competing European nations from doing the same:

> And that the aforesaid John and his sonnes...may subdue, occupie, and possesse, all such townes, cities, castles, and yles, of them founde, which they can subdue, occupie and possesse, as our vassailes and lieutenantes, getting vnto vs the rule, title, and iurisdiction of the same villages, townes, castles and firme lands so founde...[3]

Nonetheless, in general, contacts between Aboriginal and non-Aboriginal peoples in this part of North America were marked less by these European pretensions and open conflict with Aboriginal peoples than by a mixture of mutual curiosity, halting efforts at friendship and some considerable apprehension. Each side struggled to interpret the behaviour and motives of the other in the light of their respective cultural traditions. Frequently this led to negative judgements on both sides. While some Aboriginal groups retreated from contact, others moved quickly to establish firm trading relationships and to solidify their monopoly on trade with the newcomers.

Relations were established in a context in which Aboriginal peoples initially had the upper hand in population and in terms of their knowledge of the land and how to survive in it. These factors contributed to early patterns of co-operation and helped to overcome the colonial attitudes and pretensions the first European arrivals may originally have possessed. The newcomers, far from their home ports and scattered in a vast land of which they had little practical

knowledge, of necessity had to develop friendly relations with at least some original inhabitants.[4] Political and economic accommodations soon followed.

In the economic realm, both sides benefited from the commerce that took place. Europeans gained access to valuable resources such as fish and furs and also realized to varying degrees their ambitions to gain new territories. Both societies exchanged technologies and material goods that made their lives easier in their common environment. Some Aboriginal nations, too, profited from serving as commercial intermediaries between the Europeans and other Aboriginal nations located further in the interior.

The links between Aboriginal and non-Aboriginal societies in this initial period of contact were primarily commercial and only secondarily political and military. Thus they placed additional pressure on natural resources and contributed to rivalries among all participants in the trading economy. However, by the same token, they did not interfere in a major way with long-standing Aboriginal patterns of pursuing their livelihood and actually tended to build on Aboriginal strengths – hunting, fishing, trapping, trading, canoeing or transportation – rather than undermine them. It is clear that the newcomers badly needed the co-operation of the indigenous inhabitants if they were to realize the objectives that attracted them to North America. Referring to the French, J.R. Miller writes as follows:

> From the time of Champlain's voyages till the dawn of the eighteenth century, the French came for fish, fur, exploration, and evangelization. The Indian was an indispensable partner – frequently a dominant as well as a necessary partner – in all these activities. To preserve fish, to gather fur, to probe and map the land, and to spread the Christian message, cooperation by the Indians was essential. For their part the Indians found it acceptable, and occasionally desirable, to humour the newcomers. To a minor degree the explanation could be found in Indian traditions of sharing and avoiding coercion of others. A more important reason for their toleration of and cooperation with the French was that the newcomers' activities were compatible with the continuation of Indian ways. Fishing boats were no threat, given the rich stocks of fish and the brief landfalls by fishermen. Fur traders were a source of valued goods, and their activities did not require much change in Indian economic activities. Explorers and cartographers were less obviously useful...[b]ut cooperation with them was necessary to maintain the commercial relationship. The same consideration explained the grudging acceptance of missionaries in Indian villages.[5]

Politically, the initial period of contact was also one of mutual recognition, whereby Aboriginal and non-Aboriginal societies appear, however reluctantly at

times, to have determined that the best course of action was to treat the other as a political equal in most important respects. As our more detailed accounts will illustrate, however, it was a time when the European powers were developing great ambitions for North America. These ambitions would drive them to claim these lands as their own, to proclaim their exclusive sovereignty over the Aboriginal inhabitants, and to issue instructions either to drive the Aboriginal peoples farther inland or to subdue them entirely, as given in the original instructions carried by John Cabot and other voyagers to the new world.

However, the existence of relatively strong, organized and politically active and astute Aboriginal nations caused the Europeans to recognize in practice, and later in law, the capacity of Aboriginal nations not only to govern their own affairs and to possess their own lands, but also to conclude treaties with them of a type similar to those the European nations were accustomed to making with each other. In the many ensuing struggles between France and Britain, as well as in the later ones between the American colonists and the British, Aboriginal nations were also greatly valued as military allies. Since victory or defeat in any particular military contest might hang in the balance, strenuous efforts were often made by the warring colonial powers either to enlist the support of Aboriginal nations or, at least, to assure their neutrality. Neither support nor neutrality could be demanded at this stage in the relationship, however; it could be achieved only by persuasion and diplomacy.

At this point it is important to state that, by highlighting areas of co-operation, recognition and mutual benefit, it is not our intention to minimize the hardship, the diseases and the sheer racial and religious prejudice that were also characteristic of the initial period of contact. For example, historical accounts make clear that the newcomers suffered greatly and, indeed, many died from illness, exposure and other challenges presented by a land they regarded at the outset as foreign and inhospitable. Undoubtedly they would have suffered even greater hardships had not the Aboriginal peoples helped them with food, medicines and survival techniques. Much more devastating, though, was the impact of imported diseases on the Aboriginal population, whose numbers are estimated to have declined by at least 50 per cent, if not more, in the first three hundred years of sustained contact.[6]

With declining Aboriginal populations and ever-increasing European immigration to the New World, the numerical balance between the two groups gradually shifted during this first period of relations between them. By the latter part of the 1700s, in fact, it is estimated that Aboriginal and non-Aboriginal people were roughly equal in numbers. On the eastern seaboard the imbalance in favour of the newcomers quickly became pronounced and resulted in the rapid loss of Aboriginal nations' relative autonomy in that area. Many chose to move away from non-Aboriginal settlements to preserve their independence – a tendency that would increase during the next stage in the relationship: displacement.

At this early stage, however, neither society seemed to know what to make of the other. Much debate occurred within each, as well as between them, about the new people they were encountering and their strange habits. Representatives of the Haudenosaunee Confederacy would later say that, as time went on, it was decided that the appropriate relationship was one of some distance:

> [W]hen your ancestors came to our shores, after living with them for a few years, observing them, our ancestors came to the conclusion that we could not live together in the same way inside the circle. ...So our leaders at that time, along with your leaders, sat down for many years to try to work out a solution. This is what they came up with. We call it Gus-Wen-Tah, or the two-row wampum belt. It is on a bed of white wampum, which symbolizes the purity of the agreement. There are two rows of purple, and those two rows have the spirit of our ancestors; those two rows never come together in that belt, and it is easy to see what that means. It means that we have two different paths, two different people.
>
> The agreement was made that your road will have your vessel, your people, your politics, your government, your way of life, your religion, your beliefs – they are all in there. The same goes for ours. ...They said there will be three beads of wampum separating the two, and they will symbolize peace, friendship, and respect.[7]

Interpretations of cultural difference often take the form of racist stereotypes. Nonetheless, and despite the often vast cultural differences between them, not all Europeans shared such xenophobic and self-serving views on the nature of the Aboriginal inhabitants of the newly 'discovered' lands. The diversity of views on the Aboriginal inhabitants of the New World is captured in the famous debate between Bartolomé de las Casas and Juan Ginés de Sepúlveda, which took place in 1550 in the presence of the Holy Roman Emperor at Valladolid, Spain; an excerpt from a dramatization of the debate is reproduced in the accompanying box.

Las Casas was a Roman Catholic priest and ardent advocate of Aboriginal rights who had spent much time in the Spanish colonies in the Americas. Sepúlveda was a respected jurist and imperial official, close to the emperor and his court. At that time, some Spaniards had begun to question the cruelty as well as the legal and philosophical underpinnings of colonial policy. Las Casas was the leader of those opposed to official policy.

As the extract from the Valladolid debate shows, a strong and enduring component of European conceptions of the inferiority of Aboriginal peoples was the conviction that they were heathens – "worshipping stones", as Sepúlveda put it. As a result of this conviction, Europeans determined that it was their religious duty to convert Aboriginal peoples to Christianity. This intolerant view led to sustained efforts at missionary proselytization by the various Christian denominations,

The Debate at Valladolid

Sepúlveda: The Indians of the New World are, by the rudeness of their nature, natural slaves. Natural law provides a justification for those people motivated by pure generosity who undertake to rule over barbarous peoples. By making the barbarians change their lives, they comply with a duty of mankind to rout out customs contrary to natural laws. As Aristotle teaches us, from the hour of their birth some are marked for subjection and others for rule. They are not slaves by the strength of armies or by the laws of nations, but by their nature. They are persons of inborn rudeness and of inhuman customs. Thus one part of mankind is set aside by nature to be slaves, slaves in the service of masters who are born for a life free of manual labour. Prudent and wise men have been given dominion over them for their own welfare. If inferior beings refuse this overlordship, they may be warred against justly, as one would hunt down wild beasts.

Las Casas: God has deprived [Sepúlveda] of any knowledge of the New World. Long before the Indians heard the word "Spaniard", they had properly organized states, states wisely ordered by excellent laws, religion and custom. They cultivated friendships, came together in common fellowship, lived in populous cities. In fact, they were governed by laws that surpass our own at many points. They would certainly have won the admiration of the sage of Athens. Now, we Spanish have ourselves been called wild barbarians by the Romans. They thought we were led to a more civilized life by Caesar Augustus. I would like to hear Doctor Sepúlveda in his cleverness answer this question: Does he think that the Roman war against *us* was justified in order to free *us* from barbarism? Did we Spanish wage an unjust war when we defended ourselves against the Romans?...

Sepúlveda: But worshipping stones as God is contrary to natural reason, and thus forbidden by the nature of things. The Indians *cannot* be invincibly ignorant, and they cannot be here so easily excused!

Las Casas: The ultimate intention of those who worship idols is not to worship stone, but to worship the planner of the world. Although they venerate stones, they understand there is something greater than themselves. Thus, they show they have wisdom! It is clear that the intention of those who worship idols is to honour and adore the true God, whoever he may be.

Source: "On the Just Causes of War: The Debate at Valladolid", dramatization of the debate between Bishop Don Fray Bartolomé de las Casas and Doctor Juan Ginés de Sepúlveda, historiographer to His Majesty Charles V, Holy Roman Emperor, at Valladolid, Spain, 1550 (The Canadian Broadcasting Corporation, "Ideas", 1985).

efforts that reached their peak during the next stage of relations, when the power imbalance between Aboriginal and non-Aboriginal societies permitted religious campaigns that undermined Aboriginal cultures and social structures.

However, while prejudices and stereotypes abounded, during this first period of relations between culturally divergent Aboriginal and non-Aboriginal societies, there is also evidence of a relationship of mutual respect that developed among those individuals and groups who worked, traded and sometimes lived together over longer periods of time. Outside the salons of Europe and the discourse of élites, ordinary people adopted each other's foods, clothing, hunting or transport technologies as they proved useful. Those brought together by the fur trade often intermarried and, as a result, enriched both cultures. The offspring of these unions would eventually form a new people with a distinct identity, the Métis people. And at the same time as missionaries were seeking to convert Aboriginal peoples to Christianity, there is also evidence that Europeans, especially young men working on the frontiers of contact with Aboriginal peoples, found much not only to admire but also to emulate, especially their quiet determination and independent attitudes.[8] Indeed, many Europeans were adopted and assimilated into Aboriginal nations.

This stage in the relationship between Aboriginal and non-Aboriginal societies was, in short, a tumultuous and often confusing and unsettled period. While it established the working principles that were to guide relations between them, it also brought substantial changes to both societies that, at times, threatened to overwhelm them. A snapshot of this turbulent and important time is given by the following three accounts.

The first illustrates patterns of contact and trade between the French, on the one hand, and the Wendat and Innu on the other. The second focuses on patterns of political relationship, with particular attention to the seminal *Royal Proclamation of 1763*. The early history of treaty making between European nations and First Nations is the subject of the third account. Treaties and the rights they reflect remain an important strand in the Canadian constitutional fabric, as do the Aboriginal rights that developed over time and were referred to in the Royal Proclamation. The principles of relationship first established so long ago continue to have relevance for the relations between Aboriginal and non-Aboriginal people in Canada even today, despite the turbulence and often unsettled nature of our own times.

1. The Innu, the Wendat and the Fur Trade

When Europeans first arrived in northeastern North America they encountered a diversity of indigenous nations belonging to two linguistic families, the Algonquian and Iroquoian. The former included the Mi'kmaq, and the latter

included the Haudenosaunee peoples described earlier. The Algonquian-speaking peoples who inhabited the region immediately north of the St. Lawrence and east of the Saguenay River were called Montagnais by the French, but they refer to themselves as Innu ('human being').

The Innu lived and continue to live in the boreal forest zone of the Canadian Shield. It is a region where the small number of frost-free days each year makes agriculture difficult, if not impossible. The Innu economy, therefore, was one of hunting and gathering in which small groups of some 50 people obtained river eels in the fall, porcupine, beaver, moose, and caribou in the winter, and bear, beaver and fowl in the spring. During the summer these groups congregated in larger gatherings of 150 to 300 people at the mouths of rivers flowing into the St. Lawrence to fish, trade, attend festivals, and renew their social and political bonds. Each fall, they broke up to start a new cycle of hunting and gathering in the interior. Because the Innu were organized into mobile forager groups, they lived in small, temporary dwellings – conical lodges covered with large rolls of birch bark.

From the perspective of their own culture the French had difficulty appreciating and comprehending the Innu lifestyle. The Recollet missionary Gabriel Sagard, for example, referred to the Innu in disparaging terms as the "poorest, most wretched and neediest of all", since they seemed obliged to "range the fields and forests in small bands, like beggars and vagabonds, in order to find something to eat".[9] For their part, the Aboriginal peoples recognized the difference in lifestyles between themselves and the Europeans. Algonquian peoples remarked that their people were like caribou because they were continually on the move, while the French remained stationary like the moose.[10]

The sedentary newcomers, who were "tilling the earth at the place where they make their abode" appeared to have more in common with the Iroquoian-speaking peoples further south.[11] The Iroquoians living in the region between Georgian Bay and Lake Simcoe called themselves Wendat ('Islanders' or 'Dwellers on a Peninsula'[12]), while the French referred to them as Huron – perhaps an adaptation of the Old French term *hure*, a figurative expression for a rustic or hillbilly.[13] At the time of European contact, the Wendat Confederacy had a population of more than 20,000 people inhabiting an area of less than 2,000 square kilometres.[14]

The Wendat in this early period consisted of four distinct nations living adjacent to one another in large, heavily fortified villages of 1,500 to 2,000 people, as well as in smaller satellite communities surrounded by fields. These settlements were occupied year-round but were moved once every 10 to 15 years. The Wendat organized themselves into matrilineal extended families and, like their Haudenosaunee relatives, lived in longhouses. Although the soil conditions and annual growing season were not ideal for farming, they were sufficient to permit a few important crops. The women tended the fields of corn, beans and

squash, while the men hunted, fished, traded, and carried out military and diplomatic missions.

Throughout much of the sixteenth century the Europeans were interested primarily in whaling and the cod fishery. Thus, during this initial phase of contact the fur trade constituted only a modest supplement to these industries and was restricted to the eastern seaboard and the Gulf of St. Lawrence. By the turn of the seventeenth century, however, the Europeans were lingering for extended periods on North American soil and coming into more intensive contact with the Aboriginal peoples, a tendency that accelerated with the arrival of traders and missionaries. This extended contact was to have a profound effect on both societies and would lead to many cultural and political innovations.

Religious and culturally based misinterpretations and misconceptions were inevitable in the earliest periods. According to an oral account recorded in 1633, recalling an incident in the early sixteenth century, the first time the Innu saw a French ship arrive upon their shores they thought it was a moving island. Their astonishment only increased at the sight of men on deck. As was their custom when visitors arrived, the Innu women immediately erected shelters for them while the men ventured out in canoes to meet the new arrivals. For their part, the French offered them biscuits. The Innu took the biscuits ashore, examined them, tasted them, then threw them into the river, reporting that the Frenchmen drank blood and ate wood – thus naming the wine and biscuits they had seen.[15] Nonetheless, it did not take long for the Innu to recognize that the newcomers had goods that could be adapted to their own requirements.

Initially, the Algonquian and Iroquoian peoples regarded European metal objects and glass beads much as they viewed native copper and quartz crystals, seeing them as sources of supernatural power. In other cases they modified novel goods so that they conformed more closely to their own cultural preferences. For example, many of the European beads were produced through a process of building up successive layers of coloured glass; when given these polychrome beads, the Wendat ground off the dark blue and white outer coatings to reveal the desired red layer underneath. The scarcity of some symbolically charged items, as well as the utilitarian nature of others, made them particularly desirable.

By the early seventeenth century the Innu were routinely using copper kettles and iron axes as replacements for bark baskets, clay pots and stone adzes. Some individuals also adopted woollen garments and purchased dried peas and sea biscuits. Since the Innu were seasonally nomadic, they were not in a position to accumulate large quantities of European goods; hence, there was little desire to maximize the trade. Nevertheless, many goods were accumulated for the purpose of giving them away, whether to relatives, neighbours or allies, thereby enhancing the prestige of the givers.

Europeans also realized many benefits in the early contact experience. For example, the North American practice of pipe smoking was enthusiastically

appropriated by sixteenth-century Europeans, at first for purely medical reasons. According to prevailing European ideas of that era, smoking seemed to dry out superfluous 'humours', thereby adjusting imbalances caused by inappropriate diet and climate. By the first decade of the seventeenth century tobacco had become a panacea prescribed for every malady from flatulence to the plague. Within a short time the tobacco trade became the economic lifeline of Jamestown, Virginia, the first permanent English settlement in the New World.

Although some European traders obtained Aboriginal clothing, canoes, snowshoes and other items for themselves, the most sought after goods were beaver pelts. They could be sold in Europe as the raw material for felt hats, then in vogue among the middle class and the nobility. The traders were especially interested in procuring pelts that had already been worn as clothing for fifteen to eighteen months. Wearing them during the winter wore off the long guard hairs, thereby rendering them most valuable for the manufacture of high-grade felt. For Aboriginal people, hunting the then-abundant beaver and selling used clothing was an economical means of obtaining European goods.

The fur trade thus served as an additional incentive for the Innu to gather along the St. Lawrence. Once the trade became firmly established, however, the sheer volume of furs required by French trading companies to cover their costs resulted in the expansion of the trade to other Aboriginal groups further inland. Because of their seasonal rounds and strategically located summer camps, the Innu enjoyed a middleman status between the French traders who came to Tadoussac at the mouth of the Saguenay and other Algonquin trappers in the interior. The furs obtained north of the St. Lawrence were not only greater in number but also of superior quality to those collected to the south. This was one of the factors that pushed the French to establish ties with the Innu, rather than with groups such as the more southerly Mohawk who lived in what is now New York state.

By the first decade of the seventeenth century the French were granting trading monopolies to wealthy merchants in hopes of promoting year-round European settlement in the St. Lawrence region. This necessitated good relations with the Innu who controlled trade at Tadoussac. In 1600, Pierre de Chauvin left 16 men to spend the winter; only five survived, despite the generous help of the Innu. Several years later, François Gravé Du Pont took three Innu to spend a winter in France, where they were treated with equal generosity. To maintain cordial trade relations, the French offered to assist the Innu in their hostilities with the Mohawk, a decision that was to lead to decades of enmity between the French and the Haudenosaunee Confederacy.

When the French built a post at Quebec in 1608, the Innu welcomed the additional protection from Mohawk raids, and the French saw it as an opportunity to safeguard their interests from competing groups of traders and as a means of promoting free use of the St. Lawrence by their indigenous trading

partners. The post was also to serve as a springboard for expeditions into the interior. The Innu, likely in an effort to maintain their middleman position in the fur trade, prevented Samuel de Champlain from travelling up the Saguenay River. The following year, however, they encouraged him to accompany them up the St. Lawrence and Richelieu rivers on a joint raiding expedition against the Mohawk. Unfortunately for the Innu, this allowed the French to establish closer ties with another Aboriginal nation that had joined the raiding party, the Wendat. Their interior location meant that from this point on, much of the trade bypassed Tadoussac, leaving many Innu to return to their traditional lifeways in the hinterlands.

Aware of the advantages of trade with a populous and relatively sedentary society located deep in the interior and away from competing traders, Champlain aspired to bring the Wendat into the fur trade. By that time the Wendat had already become the hub of the intertribal trading network in the Great Lakes region. Although the beaver had become virtually extinct in Wendat territory by 1630, they were nevertheless able to obtain a sufficient number of furs from their trading partners in return for corn surpluses and European goods. The furs were then traded to the French in return for iron knives, awls, axes, copper and brass kettles, and glass beads. For many years, a flotilla of 60 canoes and 200 men from Huronia came to Quebec via the French, Mattawa, Ottawa and St. Lawrence rivers. As many as 15,000 pelts were traded annually. This commerce appears to have strengthened Wendat social organization, enhanced the power of hereditary chiefs, and generally enriched their culture. It also brought substantial profits for the French.

Enhanced contact through the fur trade also had destructive consequences, however, the most serious being epidemics of European origin which, by the 1630s, were decimating the Innu and beginning to affect the Wendat. Less obviously destructive, at least in the short term, was the impact on traditional Aboriginal societies of missionary proselytization. Recollet missionaries had already attempted to persuade the Innu to turn to farming, convert to Christianity, abandon 'uncivilized ways', and settle in European-style villages. However, the extensive seasonal movements of the Innu and their frequent changes in group affiliation made it difficult for missionaries to accomplish this task.

After his attention focused on Huronia, Champlain insisted that there would be no trade without missionaries. The Recollet missionaries in Wendat territory refused, however, to live with 'pagan' Wendat families, erecting cabins on the outskirts of Wendat settlements instead. The Jesuits who arrived a few years later believed that conversion was best achieved by keeping Indigenous peoples away from the vices of European settlements. They therefore pursued a different course from their predecessors, living among the Wendat and learning their language. During this period many Aboriginal people regarded the missionaries as shamans, interpreted their baptismal rites as curing rituals, and generally

tolerated their presence for fear of jeopardizing trade and political alliances with the French.

To the Jesuits their mission was akin to a war against satanic forces and was intended to reap a rich harvest of souls. In their battle, the missionaries were armed with formidable intellectual weapons, since all had studied and taught a variety of academic subjects for at least six years in prestigious French colleges. What ensued was a remarkably sophisticated philosophical discourse, in which some of the most educated men of Europe engaged in long arguments deep in the Canadian wilderness with shamans and village elders equally adept at debating metaphysical issues from their own cultural perspective.

Although the benefits of trade were easily understood on both sides of the cultural divide, belief systems were an entirely different matter. European intellectualism and religious intolerance led to many misunderstandings. For example, confronted with a Wendat understanding of the afterlife, Father Jean de Brébeuf felt obliged to exclaim, "God of truth, what ignorance and stupidity!"[16] Responding to Paul Le Jeune's inquiries on the same subject, an Innu elder retorted, "Be silent; thou hast no sense; thou askest things which thou dost not know thyself."[17] At issue was the composition and fate of the soul. Steeped in the traditions of classical philosophy and Christianity, the Jesuits argued that only human beings had a soul, and that the soul itself was a single entity that could not be separated into parts. The Wendat, on the other hand, along with other Aboriginal peoples, believed that other animate beings and even inanimate objects also had souls. Moreover, they also held that each human being had at least five different souls, not just one.

Recognizing that Indigenous peoples were interested in French technology and regarded legerdemain as a sign of spiritual power, the Jesuits employed written texts, iconographic imagery, magnets, magnifying glasses, clocks and even their ability to predict eclipses in an effort to provide empirical demonstrations of their own supernatural superiority. The Wendat were also made aware that converts were given more gifts by the French, offered better prices for their beaver pelts and, eventually, supplied with firearms.

Wendat religion, similar to the views of other Aboriginal peoples, permeated all aspects of life and made no distinction between the secular and the sacred. Upon conversion to Christianity, therefore, Wendat converts were obliged to give up more than their Wendat religion. They also gave up much of what had given them their overall sense of identity as Wendat. As the number of converts rose, this had profoundly negative consequences for Wendat social and political cohesion. For example, converts were led to believe that even after death they could not rejoin their fellow villagers in the land of the souls, but would end up instead in the Christian Heaven illustrated in Renaissance woodcuts.

Thus, by the 1640s tensions between Christian converts and Wendat traditionalists resulted in factionalism, further undermining a confederacy already

weakened by the loss of much of its population to European diseases. In 1649, the Mohawk and Seneca nations took advantage of the debilitated and divided Wendat people, attacking their settlements and dispersing them from their traditional homelands. Many Wendat fled to the west and established themselves in lands now part of Michigan and Ohio; others moved east to the settlement at Lorrette near Quebec City; still others were adopted into Iroquois villages in what is now New York state.

In summary, there is little doubt that contact between Aboriginal and non-Aboriginal peoples in the late sixteenth and early seventeenth centuries was mutually beneficial in many important ways. The cultures of both groups were altered, and unique forms of commercial and political association were developed that will be discussed in subsequent chapters. Contact also had tragic consequences with long-term effects, however, many of which are still felt in modern Canadian society.

It is also clear that the patterns of relationship varied significantly from one Aboriginal group to another. Since Algonquian and Iroquoian nations, for example, had different modes of subsistence and social organization and unique and well established patterns of political and trade relations before European contact, it is not surprising that they experienced the effects of contact differently. Pursuing different strategies of accommodation and compromise, the many diverse Aboriginal nations on the northern half of the continent that came into contact with non-Aboriginal peoples did not all experience the effects of that contact in the same way.

2. The *Royal Proclamation of 1763*

As illustrated by the extract from the letters patent issued to John Cabot cited earlier in this chapter, both France and Great Britain initially had far-reaching plans for imperial adventures in North America that took little account of the rights of the Aboriginal inhabitants. Nonetheless, as the history of French relations with the Innu and Wendat shows, in the early days of colonization the French were usually compelled to seek Aboriginal nations as trading partners and military allies, in that way recognizing the autonomy and independence of the Aboriginal nations with which they sought association.

This paradoxical blend of imperial pretension and cautious realism was reflected not only in the actions they took in relation to Aboriginal societies, but also in official documents of the era. A good example is the royal commission issued in 1603 by the French Crown to Sieur de Monts, giving him the authority to represent the King within a huge territory running along the Atlantic coast from modern New Jersey, north to Cape Breton Island and extending indefinitely inland.

The document makes no attempt to disguise its imperial ambitions. It gives de Monts the power to extend the King's authority as far as possible within the

Excerpt from the *Royal Proclamation of 1763*

And whereas great Frauds and Abuses have been committed in the purchasing Lands of the Indians, to the great Prejudice of Our Interests, and to the great Dissatisfaction of the said Indians; in order therefore to prevent such Irregularities for the future, and to the End that the Indians may be convinced of Our Justice, and determined Resolution to remove all reasonable Cause of Discontent, We do, with the Advice of Our Privy Council, strictly enjoin and require, that no private Person do presume to make any Purchase from the said Indians of any Lands reserved to the said Indians, within those Parts of Our Colonies where We have thought proper to allow Settlement; but that if, at any Time, any of the said Indians should be inclined to dispose of the said Lands, the same shall be purchased only for Us, in Our Name, at some publick Meeting or Assembly of the said Indians to be held for that Purpose...

Source: Brigham, *British Royal Proclamations* (cited in note 27), volume 12, pp. 212-218. This is the most accurate printed text of the Proclamation, and it is reproduced in full in Appendix D of this volume. A less accurate version is reproduced in the Revised Statutes of Canada 1985, Appendix II, No. 1. The original text, entered on the Patent Roll for the regnal year 4 George III, is found in the United Kingdom Public Record Office, c. 66#3693 (back of roll).

stated limits and to subdue the local inhabitants. Nevertheless, in the same breath, it acknowledges the independent status of indigenous American peoples and recognizes their capacity to conclude treaties of peace and friendship. The commission portrays treaties as a principal means for enlarging the King's influence in America and mentions the possibility of "confederation" with the Indigenous peoples. De Monts is told to uphold and observe such treaties scrupulously, provided the Indigenous peoples and their rulers do likewise. If they default on their treaty obligations, De Monts is authorized to resort to war in order to gain at least enough authority among them to enable the French to settle in their vicinity and trade with them in peace and security.

Aboriginal nations viewed their relations with the French from a different perspective. While outlooks varied from nation to nation, as a rule Aboriginal peoples tended to characterize these relations at the outset more in terms of friendship and alliance and less in terms of sovereignty or protection in the European sense.[18] As demonstrated by our earlier discussion of the Haudenosaunee Great Law of Peace, this was in keeping with their own traditions and clan- and family-oriented approach to nation-to-nation matters. For example, in 1715 when the British tried to persuade the Mi'kmaq to swear allegiance to the British Crown after the French cession of Acadia, the Mi'kmaq

replied that the French Crown could not have ceded away their rights since they had always been independent peoples, allies and brothers of the French.

Likewise, in 1752 the Abenakis pointedly informed a representative of the governor at Boston as follows:

> We are entirely free; we are allies of the King of France, from whom we have received the Faith and all sorts of assistance in our necessities; we love that Monarch, and we are strongly attached to his interests.[19]

Evidently, the reality of relations between Aboriginal and European nations in these early periods was remarkably complex, fluid and ambiguous. Thus, while the French, for instance, clearly wanted to assert some form of sovereign control over neighbouring Aboriginal peoples, in practice they often had to settle for alliances or simple neutrality. And while Aboriginal nations sometimes wished to assert their total independence of the French colony, in practice they often found themselves reliant on French trade and protection and increasingly overshadowed by European armed might.

The French policy of cultivating the friendship and alliance of Aboriginal peoples was replicated, with less success, by the burgeoning British colonies to the south. Like New France, these colonies would have preferred to be in a position to dominate and control their Aboriginal neighbours. However, they often had little alternative but to solicit Indigenous peoples as trading partners and as allies in the struggles with France. So, as with French-Aboriginal relations, treaties were a common and important feature of British relations with indigenous North American peoples. And as illustrated by the earlier account of the Haudenosaunee, treaties and other formal acts between Aboriginal and European nations were usually conducted in accordance with an adapted form of the ceremony appropriate to the Aboriginal nation concerned. The treaty relationship is discussed further later in this chapter.

There was one important difference between British and French practice in this context that would have long-term effects on the overall relationship between Aboriginal and non-Aboriginal peoples in this part of North America. The French colony, whose population remained small, was planted along the shores of the St. Lawrence River, in an area no longer inhabited by the Iroquoian peoples of Stadacona and Hochelaga. Thus, there was no need for the French to obtain lands from their Aboriginal neighbours. By contrast, from an early period the British colonists found their Aboriginal neighbours in possession of lands they wanted themselves for purposes of expanding their settlements and economic activities.

In the opening stages of British settlement in North America, this collision of interests resulted in warfare and led to the forcible dispossession of Aboriginal nations in Virginia and New England. Many Aboriginal nations allied themselves with the French or retreated before the advance of the British colonists. Over time,

however, and to avoid further hostilities, a policy developed whereby lands required for settlement would ordinarily be secured from their Aboriginal owners by formal agreement. Thus, treaties specifically involving land cessions by Aboriginal nations soon became a common feature of the British-Aboriginal relationship.

Relations between the British colonies and Aboriginal peoples during this period were complex and diverse, with strong elements of contradiction and paradox that often defy understanding even today. This is one reason the history of relations between them is so crucial to understanding contemporary disputes between Aboriginal and non-Aboriginal peoples. Nevertheless, by 1763, when New France was ceded to the British Crown in the Treaty of Paris, Aboriginal/English relations had stabilized to the point where they could be seen to be grounded in two fundamental principles.

Under the first principle, Aboriginal peoples were generally recognized as autonomous political units capable of having treaty relations with the Crown. This principle was established at an early stage of British settlement. It is reflected, for example, in royal instructions to the governor of Nova Scotia in 1719:

> And whereas we have judged it highly necessary for our service that you should cultivate and maintain a strict friendship and good correspondence with the Indians inhabiting within our said province of Nova Scotia, that they may be induced by degrees not only to be good neighbors to our subjects but likewise themselves to become good subjects to us; we do therefore direct you upon your arrival in Nova Scotia to send for the several heads of the said Indian nations or clans and promise them friendship and protection in his Majesty's part; you will likewise bestow upon them in our name as your discretion shall direct such presents as you shall carry from hence for their use.[20]

This provision recognizes the autonomous status of Indian peoples, organized in nations or clans, with their own leaders, and envisages the establishment of treaty relations. This inference is spelled out in revised instructions sent to the Nova Scotia governor in 1749, which directed him explicitly to enter into a treaty with the Indian people, promising them the Crown's friendship and protection.[21]

A second principle emerged from British practice. This acknowledged that Aboriginal nations were entitled to the territories in their possession unless, or until, they ceded them away. Although this proposition may seem self-evident, it was not always so from the colonists' self-interested perspective, and it required periodic restatement. It was articulated, for example, by royal commissioners appointed by the Crown in 1664 to visit the New England colonies. The commissioners had the power, among other things, to hear Indian people's complaints of ill-treatment.[22] One of the matters considered by the commissioners was a Massachusetts law providing that Indian people had a just right to any lands they possessed, so long as they had improved these lands "by subduing the same".[23]

The latter restriction – reminiscent of preacher Gray's views (quoted in Chapter 4) that "these savages have no particular property in any part or parcel of that country" and supported by biblical citations – suggested that Indian title would be recognized only over lands that had actually been cultivated or otherwise 'improved' in the European fashion. Under this proviso, the traditional hunting and fishing grounds of Indian peoples would not have qualified. The royal commissioners censured this provision, commenting that it implied that Indian people "were dispossessed of their land by Scripture, which is both against the honor of God & the justice of the king." In conclusion, the commissioners reaffirmed the title of Indian peoples to all their lands, both 'improved' and 'unimproved', stating broadly, "no doubt the country is theirs till they give it or sell it, though it be not improved."[24]

When New France fell to British forces and was ceded to the Crown in 1763, Great Britain was confronted with the twin problems of winning the friendship and trust of France's former First Nations allies and dealing with the mounting dissatisfaction of some of its own indigenous allies over incursions by American colonists on their lands. Although the war with France was over, there was a grave danger that a new war with First Nations might break out. The British government decided that the best course was one of conciliation, as an official memorandum sent by Lord Egremont makes clear:

> Tho'...it may become necessary to erect some Forts in the Indian Country, with their Consent, yet His Majesty's Justice & Moderation inclines Him to adopt the more eligible Method of conciliating the Minds of the Indians by the Mildness of His Government, by protecting their Persons & Property & securing to them all the Possessions, Rights and Priviledges they have hitherto enjoyed, & are entitled to, most cautiously guarding against any Invasion or Occupation of their Hunting Lands, the Possession of which is to be acquired by fair Purchase only...[25]

Events quickly proved that the fears of conflict were far from groundless. During the summer of 1763, a widespread war – led by the Odawa chief, Pontiac – erupted over unresolved grievances, engulfing the American interior. This underscored the need for a sound, comprehensive and enforceable Indian policy. In response, the British government adopted the somewhat unusual measure of issuing a royal proclamation declaring in resounding terms the basic tenets of British policy toward the Indian nations. At the same time it made provision for the territories recently ceded to Great Britain by France and Spain. By giving the Proclamation widespread publicity throughout the colonies, it was hoped to reassure Indian peoples of the good intentions of the British government.

This document, issued on 7 October 1763, is a landmark in British/Indian relations (see Appendix D). It has been described by Mr. Justice Hall of the

Supreme Court of Canada as the Indian Bill of Rights. "Its force as a statute", he writes, "is analogous to the status of Magna Carta which has always been considered to be the law throughout the Empire. It was a law which followed the flag as England assumed jurisdiction over newly discovered or acquired lands or territories."[26]

The Proclamation is a complex legal document, with several distinct parts and numerous subdivisions, whose scope differs from provision to provision. It resists easy summary, but it serves two main purposes. The first is to articulate the basic principles governing the Crown's relations with Indian nations. The second is to lay down the constitutions and boundaries of several new settler colonies, one being the colony of Quebec.

The basic viewpoint informing the Proclamation's Indian provisions is summarized in the preamble as follows:

> And whereas it is just and reasonable, and essential to Our Interest and the Security of Our Colonies, that the several Nations or Tribes of Indians, with whom We are connected, and who live under Our Protection, should not be molested or disturbed in the Possession of such Parts of Our Dominions and Territories as, not having been ceded to, or purchased by Us, are reserved to them, or any of them, as their Hunting Grounds...[27]

This passage portrays Indian nations as autonomous political units living under the Crown's protection while retaining their internal political authority and their territories. These territories should not be granted or appropriated by the British without Indian consent. The preamble thus incorporates the two basic principles of British/Indian relations referred to earlier. Paradoxically, however, it refers to Indian lands as being "such Parts of Our Dominions and Territories". In short, Indian lands were, from the perspective of the Royal Proclamation, already Crown lands, despite their prior occupation by Aboriginal nations. Thus, while setting out new rules for Indian land cessions, the Proclamation also seems to adopt the discovery doctrine, discussed in Chapter 4. The implications of this paradoxical approach to Indian lands are discussed further in Chapter 9, in the context of the *Indian Act*.

In any event, the King goes on in the Proclamation to refer to the "great Frauds and Abuses" perpetrated in the past by individuals engaged in doubtful land speculation involving Indian lands, "to the great Prejudice of Our Interests, and to the great Dissatisfaction of the said Indians". The King expresses his determination to prevent such irregularities in the future, so that "the Indians may be convinced of Our Justice, and determined Resolution to remove all reasonable Cause of Discontent". To implement this policy, the King forbids private individuals to purchase any lands from the Indians and lays down a procedure requiring the voluntary cession of Indian lands to the Crown in a public assembly

of the Indians concerned. The land cession is thus to be effected by mutual agreement or treaty.

In short, the Proclamation portrays Aboriginal nations as autonomous political units living under the Crown's protection and on lands that are already part of the Crown's dominions. Aboriginal nations hold inherent authority over their internal affairs and the power to deal with the Crown by way of treaty and agreement. In a word, it portrays the links between Aboriginal peoples and the Crown as broadly 'confederal'.

Relations between the Crown and Aboriginal peoples differed from those between the Crown and its settler colonies. This difference is reflected in the structure of the Proclamation, which deals in a separate part with the constitutions of Quebec and several other new colonies. Here, the King directs the colonial governors to summon representative assemblies as soon as circumstances permit. The governors are given the power, together with their councils and assemblies, to make laws "for the Public Peace, Welfare, and Good Government" of the colonies. In the meantime, and until representative assemblies can be called, the inhabitants of the colonies "may confide in Our Royal Protection for the Enjoyment of the Benefit of the Laws of Our Realm of England", a provision that seemed, in Quebec, to repeal the existing laws derived from France. For this purpose, the governors were authorized to set up courts of public justice to hear both criminal and civil cases, "according to Law and Equity, and as near as may be agreeable to the Laws of England".

These provisions established the basic constitutional framework of the colony of Quebec. They did not interfere with the separate provisions dealing with Indian nations. On the contrary, the segmented structure of the Proclamation reflected the established practice under which Aboriginal nations were treated as distinct entities, with internal constitutions and laws differing from those of the settler colonies and holding particular relations with the Crown through local representatives.

This state of affairs is reflected in royal instructions to the governor of Quebec a few months later. The King states:

> And whereas Our Province of Quebec is in part inhabited and possessed by several Nations and Tribes of Indians, with whom it is both necessary and expedient to cultivate and maintain a strict Friendship and good Correspondence, so that they may be induced by Degrees, not only to be good Neighbours to Our Subjects, but likewise themselves to become good Subjects to Us; You are therefore, as soon as you conveniently can, to appoint a proper Person or Persons to assemble, and treat with the said Indians, promising and assuring them of Protection and Friendship on Our part, and delivering them such Presents, as shall be sent to you for that purpose.[28]

The King directs the governor to gather information about these bodies of Indians, "of the manner of their Lives, and the Rules and Constitutions, by which they are governed or regulated", thus recognizing their particular governmental structures and laws. The instructions go on to state: "And You are upon no Account to molest or disturb them in the Possession of such Parts of the said Province, as they at present occupy or possess".[29]

There was a basic difference between the constitutions of Aboriginal nations protected by the Crown and the constitutions of the settler colonies. The latter stemmed largely, if not entirely, from explicit grants, in the form of royal charters, proclamations, commissions, instructions, or acts of Parliament, as supplemented by basic unwritten principles. By contrast, the constitutions of Aboriginal nations sprang from their own internal arrangements and philosophies and were nourished by their inherent powers as self-governing nations. These powers were modified over time by relations with the Crown and by certain customary principles generated by Aboriginal/Crown practice. Nevertheless, through all these changes, Aboriginal constitutions retained their original roots within the communities concerned.

The Royal Proclamation seemed to have the effect of introducing English law into the colony of Quebec, thus sweeping away the original laws of the province. This drastic effect was largely reversed by the *Quebec Act* of 1774, which restored the "Laws and Customs of Canada" in all matters relating to property and civil rights. This provision allowed the modern civil law system of Quebec to develop. The act also repealed the Royal Proclamation's constitutional provisions relating to Quebec.[30] However, the act did not affect the Indian provisions of the Proclamation, which remained in force.

Looking back, we can see that the vision embodied in the *Royal Proclamation of 1763* was coloured by the imperial outlook of Great Britain. Nevertheless, it is also possible to see it as having certain points of correspondence with the traditional Haudenosaunee image of the tree of peace. This image was expressed by the Onondaga sachem, Sadeganaktie, during negotiations with the English at Albany in 1698:

> ...all of us sit under the shadow of that great Tree, which is full of Leaves, and whose roots and branches extend not only to the Places and Houses where we reside, but also to the utmost limits of our great King's dominion of this Continent of America, which Tree is now become a Tree of Welfare and Peace, and our living under it for the time to come will make us enjoy more ease, and live with greater advantage than we have done for several years past.[31]

There is no question that the political arrangements entered into by the Crown and the Aboriginal nations with which it was associated were unique for the times. While reminiscent in many ways of the established practices of

European nations among themselves, in important respects the arrangements reflected the unusual and unforeseen circumstances in which Aboriginal and non-Aboriginal societies found themselves on the North American continent. As shown by the account of first contact with the Innu and Wendat, policy was often made on the spot in response to the concrete conditions encountered by two different societies sharing a common environment and with shared commercial and military aspirations.

The *Royal Proclamation of 1763* was itself yet another creative response to the actual conditions in North America. It should not be surprising to learn, then, that treaties between the Crown and Aboriginal nations were also just such a creative and mutually adaptive process for regulating their overall relationship. Not all treaties were the same, and not all were made at the same time or for the same purposes. Nonetheless, all have some common characteristics – especially from the perspective of the Aboriginal nations that entered into them. It is to this aspect of the relationship that we now turn.

3. Early Patterns of Treaty Making

Treaties between the Aboriginal and European nations (and later between Aboriginal nations and Canada) were negotiated and concluded through a treaty-making process that had roots in the traditions of both societies. They were the means by which Europeans reached a political accommodation with the Aboriginal nations to live in peaceful co-existence and to share the land and resources of what is now Canada.

The treaties negotiated over the years are not uniform in nature. In this section, we refer briefly to the treaty-making experience of Aboriginal and European societies before they began to treat with each other and then discuss the types of treaties that emerged in the seventeenth and eighteenth centuries. In Chapter 6, later in this volume, the account of treaty making continues with a description of some major treaties signed in the nineteenth and early twentieth century in Ontario and western and northern Canada. In both accounts, we seek to clarify differences in perspective between treaty nations and the Crown with respect to the substance of the treaties and the nature of treaties as instruments of relationship.

3.1 Prior Traditions of Treaty Making – Confederacies in North America

When the Europeans arrived on the shores of North America they were met by Aboriginal nations with well-established diplomatic processes – in effect, their own continental treaty order. Nations made treaties with other nations for

purposes of trade, peace, neutrality, alliance, the use of territories and resources, and protection.

Since interaction between the nations was conducted orally, and the peoples involved often had different languages and dialects, elaborate systems were adopted to record and maintain these treaties. Oral traditions, ceremonies, protocols, customs and laws were used to enter into and maintain commitments made among the various nations.

Aboriginal nations formed alliances and confederacies that continued into the contact period, with treaties serving to establish and solidify the terms of the relationship. Protocols between nations were maintained conscientiously to ensure that friendly and peaceful relations prevailed.

The Wendat Confederacy, for instance, dates to 1440 and was made up of four Huron clans that were culturally and linguistically related and already shared similar political institutions. The Wendat Confederacy was a great trading alliance that carried on extensive trade with neighbouring nations such as the Algonquin, Montagnais and Ojibwa.

Confederacies often facilitated interaction among member nations and united them for political and military purposes, as well as curbing intertribal aggression and settling grievances. With respect to the Huron, for example,

> The suppression of blood feuds was supervised by a confederacy council made up of civil headmen from the member tribes, which gathered periodically for feasts and consultations, judged disputes, and arranged for reparations payments as the need arose. ...There is no evidence that the member tribes of a confederacy were bound to help one another in case of attack or to aid each other in their wars; often the foreign policies of the member tribes were very different from one another. Nevertheless, the confederacies did serve to restrain violence among neighbouring tribes and to this degree promoted greater security for all their members.
>
> ...Once formed, these confederacies were strengthened by the demands of the fur trade, and became mechanisms for dealing with European colonists.
>
> ...While the forging and maintaining of these confederacies are evidence of great political skill, the confederacies themselves were extensions of political institutions already existing at the tribal [nation] level and did not require the formulation of new principles of political organization. These developments encouraged more emphasis on ritualism to promote political and social integration.[32]

Among nations occupying overlapping territories, confederacies were formed in part to protect boundaries on all sides[33] and to regulate resource use within the common area. This was the case for the plains nations, which used

large territories for their hunting economies and whose alliances created relationships based on mutual respect and non-interference. One nation could not interfere in the internal affairs of another but might intervene at the request of a member nation.

Thus, while confederacies oversaw the external affairs of nations, they respected the internal autonomy of their members. They fostered trade and communications networks that were later adapted for trading purposes with the Europeans. Confederacies shaped treaty arrangements as well.[34]

Concepts of treaty making were reflected in the languages of the Indian nations. The term used to describe the concept of treaty usually comes from the long history of laws and protocols applied to relations between the Indian Nations. In the Ojibwa language, for example, there is a difference between *Chi-debahk-(in)-Nee-Gay-Win*, an open agreement with matters to be added to it, and *Bug-in-Ee-Gay*, which relates to 'letting it go'. The Lake Huron Treaty of 1850, according to the oral tradition of the Ojibwa, was to be 'added to'.[35]

3.2 Prior Traditions of Treaty Making – The European Experience

As the political power of the church dwindled and feudal aristocratic hierarchies crumbled, the leaders of the emerging nation-states struggled for survival and trade by making alliances among themselves. Many European treaties of this early nation-building period were constitutive in nature – that is, they secured recognition of the independence and sovereignty of nations both from one another and from the pope.

In a process of national consolidation that also involved trading territories and establishing new boundaries, Europe was reorganized from one vast network of small communities, linked by the marriages of princes or nobles and obedience to one church, into a group of large and legally distinct states linked mainly by treaties. The treaties of Westphalia (1648) and the Pyrenees (1659), for example, recognized France and Spain as separate kingdoms with agreed upon borders, while the Treaty of Utrecht (1713) relinquished the succession claims of the French, Spanish and British sovereigns to each other's throne.

European jurists began to systematize their understanding of treaty law in the seventeenth century, drawing on Roman legal treatises as well as a growing body of European diplomatic precedents. From Roman law they adopted the essential principle *pacta sunt servanda* – treaties shall be honoured in good faith.

From the struggle to build new, independent nations and the spirit of Renaissance humanism, Europeans drew the conclusion that all nations were to be treated as equal in status and rights, regardless of differences in their wealth, culture or religion. Since all nations were equal, it followed that treaties must be entered into freely, could be terminated only by mutual consent, and could not

affect any third parties. Since European nations wished to protect their newly won independence, jurists decided that treaties should be given the interpretation that is least restrictive of the parties' sovereignty.

Although both Aboriginal and European nations had used treaties to facilitate arrangements with neighbouring states and nations before sustained contact with each other, they drew upon different traditions of treaty making, reflecting substantial differences in political theory. As will become evident, these were to colour the subsequent history of relations between Europeans and Indigenous peoples in the Americas. The legacy of these differences continues to the present day.

3.3 Pre-Confederation Treaties in Canada

The earliest treaty making between Aboriginal and non-Aboriginal peoples in Canada was undertaken in the context of small groups of settlers living on a small portion of the land mass of the continent and involved such matters as trade and commerce, law, peace, alliance and friendship, and the extradition and exchange of prisoners. It took place in a time of intense diplomatic and military competition among European powers to claim territory, trade and influence in North America. In this context, economic and strategic ties with Indian nations became important, for the Europeans needed treaties to justify their competing territorial claims and to garner allies for their struggle. As long as their colonies were small and vulnerable, they eagerly entered into treaties with due consideration to the terms, and according to such protocols, as Indian nations wished.

The principal alliances of the French with the Innu (Montagnais), Algonquin and Wendat (Huron) were economic and military in nature. As we have described earlier, the basis for the economic alliance was the fur trade, which developed as a mutually beneficial enterprise. Trade, friendship and alliance were the foundations upon which this new relationship was built.[36]

The military aspect of the alliances originated with the French helping their allies in conflicts with the Haudenosaunee in return for commercial privileges. The French, however, soon came to rely heavily on their partners to counter British expansionism.[37] In this case, the interests of the French and their allies were common, because the expanding territorial aspirations of the burgeoning settler population of New England were also a threat to Aboriginal interests.

> Less numerous than the Aboriginal people and...the British settlers, the French could do nothing without the support of the Indian nations from which they drew their strength. And this strength rested on the ability of the French to exercise their leadership so as to maintain consensus about their objectives. Onontio [the Aboriginal name for a viceroy of New France] could not force his allies to make war, and indeed, those allies often opted for peace or neutrality, against the wishes of the French. [translation][38]

These alliances were concluded and renewed through formal protocols involving oral pledges and symbolic acts and were sometimes recorded on wampum, but they were usually not written down. Like written treaties, however, the alliances created reciprocal obligations for the parties. These obligations were accepted through protocols such as gift giving, which acted as a form of ratification of the obligations outlined orally.[39]

Although these agreements addressed matters of economic and military alliance, the first written treaties were signed in the interests of making or renewing peace between nations at war. Thus the first written treaties between the French and the Haudenosaunee, in 1624, 1645 and 1653, were essentially non-aggression pacts that had little lasting success. French conflicts with the Haudenosaunee, which began in 1609, would last until 1701, when both parties, along with the Aboriginal members of the French alliance, signed the Great Peace of Montreal, which established Haudenosaunee neutrality in any conflict between England and France.

The British view of treaties was that once a treaty was signed it would remain in effect – more or less in a steady state – until definite action was taken by one or both sides to change it. In contrast, the Iroquoian view was that alliances were naturally in a constant state of deterioration and in need of attention. Wampum belts, given and received to confirm agreements, depicted symbols of the dynamic state of international relationships.

The path and the chain were recurring symbols of relationship in Iroquois treaty making. Speeches recorded by colonial officials in their accounts of treaty councils made frequent reference to clearing obstructions from the path and polishing the covenant chain that bound the treaty participants together in peace.[40]

According to Iroquois oral tradition, a belt consisting of two rows of coloured wampum (discussed in the previous chapter) recorded a treaty between the Mohawk and Dutch colonists in 1613,[41] as well as subsequent agreements concluded with the French and the British. A description of the Two Row Wampum, symbolizing peace and friendship, appeared in *Indian Self-Government in Canada*, the report of a special parliamentary committee. It read, in part:

> There is a bed of white wampum which symbolizes the purity of the agreement. There are two rows of purple, and those two rows have the spirit of your ancestors and mine. There are three beads of wampum separating the two rows and they symbolize peace, friendship and respect.
>
> These two rows will symbolize two paths or two vessels, travelling down the same river together. One, a birch bark canoe, will be for the Indian people, their laws, their customs and their ways. The other, a ship, will be for the white people and their laws, their customs and their ways. We shall each travel the river together, side by side, but in our own boat. Neither of us will try to steer the other's vessel.[42]

Although the minutes of councils recorded by colonists often mentioned the point at which belts and strings of wampum were passed across the council fire, the wampum themselves were seldom described in sufficient detail to make it possible to identify a link between a specific string or belt and a particular historical occasion.[43] The first full description of Iroquois treaty processes in which presentation of wampum formed a central part of the protocol dates from 1645.[44] The familiarity of French participants with the reciprocal behaviour required in the course of ceremonies where wampum was presented indicated that wampum protocols were well established by this time.

The Silver Covenant Chain is another wampum belt that figured large in the history of relations between colonists, the Iroquois and Iroquois allies. The belt shows two figures, one dark and one white, joined by a strand of purple shells on a white ground. The colonists and the Indians are said to be joined by a silver covenant chain that is sturdy and does not rust but requires periodic 'polishing' to remove tarnish and restore its original brightness.

References to the Covenant Chain became prominent in treaty history after the negotiation of accords at Albany in 1677, signifying "a multiparty alliance of two groupings of members: tribes, under the general leadership of the Iroquois, and English colonies, under the general supervision of New York. As in the modern United Nations, no member gave up its sovereignty."[45]

For the Iroquois and their allies, the covenant chain terminology, the recollection of an honourable relationship between nations, and reminders that friendship requires attention and care continued as part of their diplomatic discourse long after the particular alliances memorialized in the wampum belt had dissipated.

The complexity of Aboriginal/European diplomacy during this period is further exemplified by the Mi'kmaq treaties. It is believed that Jacques Cartier made the earliest recorded contacts with Mi'kmaq leaders in 1534. At first, the Catholic church (along with some private traders granted monopoly rights) managed diplomacy with Aboriginal nations on behalf of France's Catholic king, just as it did for Catholic Spain in much of South America. This led to the baptism of the influential Mi'kmaq leader Membertou in 1610 and to an alliance or treaty between the Catholic church and the Mi'kmaq Nation, apparently recorded on wampum. The importance of these events is upheld by Mi'kmaq oral tradition and lies at the root of the continuing faith of the Mi'kmaq in Catholicism.

As the English colonies gradually dislodged France from the east coast and the future province of Quebec, the British Crown replaced the French sovereign in a new round of alliances. To the south, English colonists were entering into treaties with Aboriginal nations in the early seventeenth century in Virginia, Massachusetts Bay and Pennsylvania. By 1725, this evolving treaty network was extended, through treaties negotiated by representatives of the colony of

Massachusetts, to the southern-most members of the Wabanaki Confederacy – an alliance that stretched from Maine to the Maritimes and included members such as the Penobscot, Passamaquoddy, and Wuastukwiuk (Maliseet) nations.[46] The Mi'kmaq were allies of the Confederacy with strong political, economic and military links to it. In the negotiation of the 1725 treaty, which addressed matters of peace and friendship, representatives of the Penobscot acted as spokespersons for other nations. Representatives of the Mi'kmaq then ratified the treaty in several subsequent councils between 1726 and 1728.

The treaty-making tradition between representatives of the British Crown and the Mi'kmaq continued in the middle decades of the 1700s, following a pattern in which some matters addressed in earlier treaties were reaffirmed while changing conditions gave rise to agreement on new issues. Thus, after the British established themselves in Halifax in 1749, new treaty discussions began, and in 1752 an important treaty was signed by the influential Mi'kmaq chief, Jean Baptiste Cope. This treaty is notable for its provisions concerning liberty of trade and British promises to establish a truck house for that purpose. The parties also agreed to come back on an annual basis to discuss matters of mutual concern and to come to new agreements – a provision that has been revitalized in contemporary times by the Mi'kmaq, who invite representatives of the Crown and of the governments of the day to join them for Treaty Day celebrations on the first day of October each year. Issues of trade, such as the actual establishment of truck houses and the prices of fur and other items, would figure prominently in a further series of treaties signed in 1760-61.

It appears that European and Aboriginal interpretations of their agreements, whether written or not, differed on some key issues. The two principal ones were possessory rights to the land and the authority of European monarchs or their representatives over Aboriginal peoples. In general, the European understanding – or at least the one that was committed to paper – was that the monarch had, or acquired through treaty or alliance, sovereignty over the land and the people on it. The Aboriginal understanding, however, recognized neither European title to the land nor Aboriginal submission to a European monarch.

As Chief Justice Marshall of the U.S. Supreme Court wrote in 1823 (see Chapter 3), the European nations embraced the principle "that discovery gave title to the government by whose subjects, or by whose authority, it was made, against all other European governments, which title might be consummated by possession."[47] This doctrine also gave the discovering European nation the exclusive right "of acquiring the soil from the natives."

The European doctrine of discovery resulted in an impairment of the rights of Indigenous peoples. Although they continued to be regarded as "the rightful occupants of the soil", with "a legal as well as a just claim to retain

possession", they ceased to be free to dispose of the soil to "whomsoever they pleased" and were compelled to deal with the European power that had, at least in European eyes, 'discovered' their land. Indigenous nations, however, did not regard the arrival of European traders, adventurers, diplomats or officials as altering in any way their sovereignty or their ownership of their territories.

Examples of these divergent understandings abound. Thus, while the French symbolically erected crosses emblazoned with the coat of arms of their monarch, and later drew up deeds of possession for Aboriginal lands, a Wendat chief clarified to the governor in 1704 that "this land does not belong to you...it belongs to us and we shall leave it to go where we may please, and no one can object." [translation][48] In 1749, a Mi'kmaq chief made a declaration of principle to the English, who had presumed the right to occupy mainland Nova Scotia under the Treaty of Utrecht.

> This land, over which you now wish to make yourself the absolute master, this land belongs to me, just as surely as I have grown out of it like the grass, this is the place of my birth and my home, this is my native soil; yes, I believe that it was God that gave it to me to be my country forever. [translation][49]

Such differences in interpretation were rooted in the respective historical and cultural backgrounds of the participants. For example, the Aboriginal conception of land and its relationship with human beings was based on the concept of communal ownership of land and its collective use by the human beings, animals and trees put there by the Creator. While people could control and exercise stewardship[50] over a territory, ultimately the land belonged to the Creator – who had given the land to the people, to care for in perpetuity – and was thus inalienable. French views, by contrast, were grounded in that country's feudal history, in which the suzerain, or ruler, not only had a form of land ownership but also had political authority over his vassals.

These incongruities could co-exist without creating conflict because, for the most part, the parties were unaware of the significant differences in interpretation. Indeed, the deep differences in world view may have gone unexpressed simply because they were so fundamental and so different. Europeans may have been literally unable to conceive of the possibility that they were not discoverers who brought light into a dark place, faith into a heathen place, law into a lawless place. Indigenous nations equally could not conceive that their nationhood or their rights to territory could be called into question. They naturally had no concept that their land had been 'undiscovered' before Europeans found their way to it.

There was also a considerable discrepancy between official communications and the dialogue with Aboriginal nations. According to Lajoie and Verville, the French claim to sovereignty over the land and its people

> was confined to their discourse, a discourse destined for their European competitors, recorded only in the accounts and petitions they sent to their principals in the mother country and that they took good care to withhold from the Aboriginal people. Nor was it revealed in their practices.[51]

The reality is that the French were members of an alliance of independent nations and were economically and militarily dependent on a co-operative relationship. They had no sovereign power beyond the areas of French settlement. To attempt to exert such powers in practice, or to express clearly that they were not just using the land but appropriating it, would have endangered their alliance and might, if the message was understood, "have sufficed to get the small contingent of French colonists hurled into the sea."[52]

The European claim to sovereignty over the land and the people may have appeared in the written terms of the treaty,[53] but it is not clear that this claim was communicated orally. To the contrary, it would appear that the Aboriginal signatories were unaware that such concepts were embodied in written treaties. Land use arrangements between European powers and Aboriginal nations in the early contact period were arrived at orally and, later, through written documents that the Aboriginal parties may not have comprehended fully at the time.

A letter from a representative of the Penobscot nation to the lieutenant governor of Massachusetts, for instance, concerning the ratification of the 1725 Boston-Wabanaki Treaty, spoke of a significant divergence between the oral agreement as understood by the Penobscot and the contents of the written treaty:

> Having hear'd the Acts read which you have given me I have found the Articles entirely differing from what we have said in presence of one another, 'tis therefore to disown them that I write this letter unto you.[54]

As well, French-speakers in attendance at the treaty ratification indicated that the aspects of the treaty concerning political and legal submission were not articulated. Rather it was emphasized that the Aboriginal participants had "come to salute the English Governor to make peace with him and to renew the ancient friendship which had been between them before."[55]

Although the political discourse between Europeans and Aboriginal nations was based on mutual respect and recognition of their powers as nations, the discourse between the colonial powers embodied their claim to sovereign authority over the Aboriginal nations. It is apparent that Aboriginal people did not infer or accept a relationship of domination, nor did the Europeans, in practice, try to impose one in this early period of interaction. Indeed, their discourse and alliances with the Aboriginal nations were based on principles of equality, peace and mutual exchange.

3.4 Understanding Treaties and the Treaty Relationship

We have noted that differences in the interpretation of treaties have arisen because of differing cultural traditions, for example, with respect to the relationship of humankind to the land. Divergent understandings extended to other matters as well.

From an Aboriginal treaty perspective, European rights in the Americas – to the use of lands and resources, for example – did not derive legitimately from international law precepts such as the doctrine of discovery or from European political and legal traditions. Rather, the historical basis of such rights came about through treaties made with Aboriginal nations. In this view, the terms of the treaties define the rights and responsibilities of both parties. It is as a result of the treaties that Canadians have, over time, inherited the wealth generated by Aboriginal lands and resources that Aboriginal nations shared so generously with them. Thus, although the term 'treaty Indians' is commonly (if somewhat misleadingly) used to refer to members of Indian nations whose ancestors signed treaties, Canadians generally can equally be considered participants in the treaty process, through the actions of their ancestors and as the contemporary beneficiaries of the treaties that gave the Crown access to Aboriginal lands and resources.[56]

In the tradition of Indian nations, treaties are not merely between governments. They are made between nations, and every individual member of the allied nations assumes personal responsibility for respecting the treaty. This is why, for example, the putu's – or treaty-keeper – among the Mi'kmaq would read the wampum treaties to the people every year, so that they would behave properly when travelling through the territories of their allies. Treaties among Indian nations specified the ceremonies, symbols and songs that would be used by individuals to demonstrate, at all times, their respect for their obligations. Among Europeans, the average citizen took no part in making treaties and knew little about the treaties that had been made. It was left to heads of state and governments to remember, and implement, national obligations.

To the Aboriginal nations, treaties are vital, living instruments of relationship. They forged dynamic and powerful relationships that remain in effect to this day. Indeed, the spirit of the treaties has remained more or less consistent across this continent, even as the terms of the treaties have changed over time.

Canadians and their governments, however, are more likely to look on the treaties as ancient history. The treaties, to Canada, are often regarded as inconvenient and obsolete relics of the early days of this country. With respect to the early treaties in particular, which were made with the British or French Crown, Canadian governments dismiss them as having no relevance in the post-Confederation period. The fact remains, however, that Canada has inherited the

treaties that were made and is the beneficiary of the lands and resources secured by those treaties and still enjoyed today by Canada's citizens.

A final source of misunderstanding about treaties lies in the fact that the relationship created by treaty has meaning and precedent in the laws and way of life of the Indian nations for which there are no equivalents in British or Canadian traditions.

One aspect of treaty making that is little understood today is the spiritual aspect of treaties. Traditional Aboriginal governments do not distinguish between the political and the spiritual roles of the chiefs, any more than they draw a sharp demarcation line between the physical and spirit worlds. Unlike European-based governments, they do not see the need to achieve a separation between the spiritual and political aspects of governing:

> Everything is together – spiritual and political – because when the Creator...made this world, he touched the world all together, and it automatically became spiritual and everything come from the world is spiritual and so that is what leaders are, they are both the spiritual mentors and the political mentors of the people.[57]

This integration of spiritual and political matters extends to treaty making, where sacred wampum, sacred songs and ceremonies, and the sacred pipe are integral parts of making the commitment to uphold the treaty. In affirming these sacred pacts, the treaty partners assured one another that they would keep the treaty for as long as the sun shines, the grass grows and the waters flow.

What sacred pacts, symbols and things of concrete value did the Crown bring to treaty making? The Crown's representatives gave their word and pledged to uphold the honour of the Crown. The symbols of their honour and trustworthiness were the reigning king or queen in whose name the treaty was being negotiated and with whose authority the treaty was vested. Missionaries were a testament to the integrity of the vows that were made and witnesses to the promises that were to be kept. Outward symbols, like flags, the red coats, treaty medals, gifts and feasts were also part of the rituals.

While European treaties borrowed the form of business contracts, Aboriginal treaties were modelled on the forms of marriage, adoption and kinship. They were aimed at creating living relationships and, like a marriage, they required periodic celebration, renewal, and reconciliation. Also like a marriage, they evolved over time; the agreed interpretation of the relationship developed and changed with each renewal and generation of children, as people grew to know each other better, traded, and helped defend each other. This natural historical process did not render old treaties obsolete, since treaties were not a series of specific promises in contracts; rather they were intended to grow and flourish as broad, dynamic relationships, changing and growing with the parties in a context of mutual respect and shared responsibility.

Despite these differences, Europeans found no difficulty adapting to Aboriginal protocols in North America. They learned to make condolence before a conference with the Six Nations, to give and receive wampum, to smoke the pipe of peace on the prairies, to speak in terms of 'brothers' (kinship relations), not 'terms and conditions' (contract relations). Whatever may have come later, diplomacy in the first centuries of European contact in North America was conducted largely on a common ground of symbols and ceremony. The treaty parties shared a sense of solemnity and the intention to fulfil their promises.

The apparent common ground was real, but under the surface the old differences in world view still existed, largely unarticulated. Fundamentally, the doctrine of discovery guided the European understanding of the treaties. They were to legitimize European possession of a land whose title was already vested in a European crown. The indigenous understanding was different. Indigenous territories were to be shared; peace was to be made and the separate but parallel paths of European and indigenous cultures were to be followed in a peaceful and mutually beneficial way.

4. Conclusion

As the accounts in this chapter have illustrated, the relationship that developed in this initial period of contact was far from perfect. It was prompted less by philosophy than by pragmatism and was often coloured by profound, culturally based misunderstandings as well as by incidents of racism and outright hostility between Aboriginal and non-Aboriginal people. For these and other reasons, the overall relationship was not uniform in shape throughout the period or in all locations. Nevertheless, it had certain features that are important to highlight.

In the political realm, it was a relationship established between representatives of European and Aboriginal nations. Despite their clear imperial ambitions, in practice the colonizing European powers recognized Aboriginal nations as protected yet nonetheless autonomous political units, capable of governing their own affairs and of negotiating relationships with other nations. In the case of the British Crown in particular, it also included the important recognition that Aboriginal nations were entitled to the territories in their possession, unless these were properly ceded to the Crown.

In the economic realm, the relationship was characterized by considerable interdependence, a complementarity of roles and some mutual benefit. This is not to say that there was no change in pre-existing Aboriginal patterns, for clearly there was substantial change. The new economy drew Aboriginal people into the production of staples for markets using technologies derived from European techniques or resulting from North American innovations. This led to over-exploitation of resource as well as exposure to the boom and bust cycles typical of staples economies. In these respects the new economy diverged from the

Aboriginal tradition of more balanced harvesting of natural resources, typical of Aboriginal hunting and gathering economies. Nevertheless, the fur trade and other natural resource harvesting of the time was part of a commercial economy that was more compatible with maintaining traditional Aboriginal ways of life than was the economy of expanding settlement and agriculture that was to replace it. It was an economy of interdependence from which both sides derived benefits through the exchange of foods, clothing, manufactured goods and technologies.

Nor were European and colonial societies immune from the effects of the new economy developing in North America. Fish became plentiful and new products – tobacco, potatoes and corn, to name a few – were introduced to European and colonial markets along with an abundant supply of furs that influenced European fashion and lifestyles, making fur affordable and accessible to the middle classes for the first time.[58] Commercial activity in Europe was stimulated, with banks, joint stock companies and trading consortiums developing rapidly to raise the capital necessary for North American ventures. Colonial societies profited from this economic expansion, establishing firmer roots in North American soil and leading the way into the interior of the vast continent in search of new opportunities, which repeated the contact and co-operation phase as more Aboriginal peoples were drawn into the colonial economic orbit.

Although practical accommodations between Aboriginal and non-Aboriginal societies were reached in the initial contact period, it does not necessarily follow that Aboriginal and European participants had the same perspective on the agreements reached between them. Fundamental differences in outlook between western and Aboriginal societies, rooted in the previous period of separate social, political and cultural development, continued into the period of early contact, influencing the interpretation of events and agreements on both sides. This led inevitably to misunderstandings, many of which continue to have repercussions today.

European attitudes of superiority and imperial ambitions often posed challenges to Aboriginal peoples' perception of the nature of the overall relationship, but Aboriginal peoples' relative strength and adaptive capacity permitted them to maintain these ties on a rough basis of equality well into this stage of contact and co-operation. The most pervasive and sustained attack on the respectful, egalitarian, nation-to-nation principles of the relationship was yet to come, however.

As the 1700s drew to a close, there were increasing signs of a shift in the relationship. Indeed, the *Royal Proclamation of 1763* itself, despite its status as a key document recognizing Aboriginal nations as autonomous political units with rights to the peaceful possession of their lands, shows signs of ambivalence. Its opening paragraph refers to Aboriginal nations but also uses the lesser term "Tribes of Indians". Moreover, while there is reference to the Indian interest in

the land ("lands not having been ceded to, or purchased by Us"), there is also reference to the provision that they "should not be molested or disturbed in the Possession of such Parts of Our Dominions and Territories..." – phrasing that implies that the British claimed sovereign title to lands, including those inhabited by the Indians.

The paradoxes and unresolved issues of this period of contact and co-operation could not remain hidden long. Indeed, in the next stage, displacement, they burst out into the open. The relationship between Aboriginal and non-Aboriginal peoples was changing. Confronted with a powerful and growing colonial society, the strength of Aboriginal nations was in decline. The colonial society was ready to test its strength in ways that would have profound implications for the relationship that had served both Aboriginal and non-Aboriginal peoples fairly well up to that point.

Notes

1. See Robert McGhee, "Contact Between Native North Americans and the Medieval Norse: A Review of the Evidence", *American Antiquity* 49/1 (January 1984), pp. 4-26.

2. J.R. Miller, *Skyscrapers Hide the Heavens: A History of Indian-White Relations in Canada*, revised edition (Toronto: University of Toronto Press, 1989), p. 24.

3. R. Hakluyt, *Voyages Touching the Discovery of America* (1582) (London: Hakluyt Society Publications, 1850), pp. 21-22, quoted in L.C. Green and Olive P. Dickason, *The Law of Nations and the New World* (Edmonton: University of Alberta Press, 1989), p. 19.

4. This did not prevent Europeans from being drawn into existing conflicts (an example was Champlain's alliance with the Algonquin and Montagnais against the Iroquois) or Indian nations becoming partisans in wars among European nations. For further details on French-Aboriginal relations in this period, see Andrée Lajoie and Pierre Verville, "Treaties of Alliance between the French and the First Nations under the French Regime", research study prepared for the Royal Commission on Aboriginal Peoples [RCAP], in Andrée Lajoie, Jean-Maurice Brisson, Sylvio Normand and Alain Bissonnette, *Le statut juridique des autochtones au Québec et le pluralisme* (Cowansville, Quebec: Éditions Yvon Blais, forthcoming); and Denys Delâge, "Epidemics, Colonization, Alliances: Natives and Europeans in the Seventeenth and Eighteenth Centuries", research study prepared for RCAP (1995). For information about research studies prepared for RCAP, see *A Note About Sources* at the beginning of this volume.

5. Miller, *Skyscrapers Hide the Heavens* (cited in note 2), p. 40.

6. Estimates of the Aboriginal population at the time of initial contact and its subsequent decline were discussed in Chapter 2.

7. Haudenosaunee Confederacy, oral presentation, *Minutes of Proceedings and Evidence of the Special Committee on Indian Self-Government*, issue 31 (31 May-1 June 1983), p. 13.

8. Miller, *Skyscrapers Hide the Heavens* (cited in note 2), pp. 44, 45.

9. Gabriel Sagard-Théodat, *Histoire du Canada et voyages que les Frères Mineurs Recollects y ont faicts pour la conversion des infidèlles* (Paris: 1636), trans. H.H. Langton, University of Toronto Library, manuscript 7, p. 321, quoted in James Axtell, *The Invasion Within: The Contest of Cultures in Colonial North America* (New York: Oxford University Press, 1985), p. 44.

10. Eleanor Leacock, "Seventeenth-Century Montagnais Social Relations and Values", in *Handbook of North American Indians,* volume 6, "Subarctic", ed. June Helm (Washington: Smithsonian Institution, 1981), p. 190.

11. Paul le Jeune, in Reuben Gold Thwaites, ed., *Travels and Explorations of the Jesuit Missionaries in New France, 1610-1791: The Jesuit Relations and Allied Documents* (Cleveland: The Burrows Brothers Company, 1896-1901), volume 29 (1898), "Iroquois, Lower Canada, Hurons, 1646", p. 221 [translation].

12. Their own name for themselves alludes to their position as people of Turtle Island. Turtle Island is a term used by many First Nations people to refer to North America. In some origin stories, the continent itself was formed, and is said to be supported still, on the back of a turtle. In other traditions, the physical features of the continent at its extremities are likened to the feet, interior land formations are comparable to the shell, and the groupings of people on distinct territories are similar to the markings on the back of a turtle. The term is favoured by many First Nations people because it signifies the perception of the land as a living entity and is a reminder of the co-operative relationships that support life.

13. Bruce G. Trigger, *The Huron: Farmers of the North*, second edition (Toronto: Harcourt Brace Jovanovich College Publishers, 1990), p. 12.

14. Trigger, *The Huron*, p. 19. See also Georges E. Sioui, *For an Amerindian Autohistory, An Essay on the Foundations of a Social Ethic* (Montreal and Kingston: McGill-Queen's University Press, 1992), p. 87.

15. Thwaites, *Travels and Explorations of the Jesuit Missionaries* (cited in note 11), volume 5 (1897), "Quebec: 1632-1633", pp. 119-121.

16. Jean de Brébeuf, in Thwaites, *Travels and Explorations*, volume 10 (1897), "Hurons: 1636", p. 147 [translation].

17. Paul le Jeune, in Thwaites, *Travels and Explorations*, volume 6, "Quebec: 1633-1634", p. 181 [translation].

18. See Lajoie et al., *Le statut juridique des autochtones* (cited in note 4).

19. Quoted in Cornelius J. Jaenan, "French Sovereignty and Native Nationhood During the French Regime", *Native Studies Review* 2/1 (1986), p. 100.

20. Text in Leonard W. Labaree, ed., *Royal Instructions to British Colonial Governors, 1670-1776* (New York: Appleton-Century-Crofts, 1935; reprinted, Octagon Books, Inc., 1967), volume 2, §673, p. 469. This provision remained in force with minor variations until at least the 1770s.

21. Labaree, *Royal Instructions*, p. 469.

22. Text in E.B. O'Callaghan, ed., *Documents Relative to the Colonial History of the State of New York*, 11 volumes (Albany: Weed Parsons & Co., 1856-1861), volume 3, pp. 64-65.

23. Text in William H. Whitmore, ed., *The Colonial Laws of Massachusetts* (Boston: City Council of Boston, 1889), p. 160.

24. Text in Nathaniel B. Shurtleff, ed., *Records of the Governor and Company of the Massachusetts Bay in New England, 1628-1686*, 5 volumes (Boston: Press of William White, 1853-54), volume 4, part II (1661-74), p. 213 [spelling modernized].

25. Egremont to the Lords of Trade, 5 May 1763, in Adam Shortt and Arthur G. Doughty, ed., *Documents Relating to the Constitutional History of Canada, 1759-1791*, second edition (Ottawa: King's Printer, 1918), part 1, pp. 128-129. Lord Egremont was the secretary of state for the southern department and as such was responsible for the North American colonies.

26. *Calder* v. *Attorney-General of B.C.*, [1973] Supreme Court Reports 313 at 394-395. This passage was quoted with approval by Lord Denning, M.R., in *R.* v. *Secretary of State for Foreign and Commonwealth Affairs, ex parte Indian Association of Alberta and others*, [1982] 2 All England Law Reports 118 at 124-125, who also stated (p. 124), "To my mind the royal proclamation of 1763 was equivalent to an entrenched provision in the constitution of the colonies in North America. It was binding on the Crown 'so long as the sun rises and the river flows'."

27. Text in Clarence S. Brigham, ed., *British Royal Proclamations Relating to America*, volume 12, Transactions and Collections of the American Antiquarian Society (Worcester, Mass.: American Antiquarian Society, 1911), pp. 212-218. See Appendix D to this volume.

28. Instructions to Governor Murray of Quebec, 7 December 1763, article 60; text in Shortt and Doughty (cited in note 25), volume I, p. 181 at 199.

29. Instructions, article 61, p. 199.

30. 14 George III, chapter 83 (U.K.), sections 8 and 4.

31. Quoted in Donald A. Grinde, Jr. and Bruce E. Johansen, *Exemplar of Liberty: Native America and the Evolution of Democracy* (Los Angeles: University of California, American Indian Studies Center, 1991), pp. 11-12, citing "Propositions made by the Five Nations of Indians" [Albany, 20 July 1698], Indian Boxes, box 1, Manuscript Division, New York Public Library.

32. Bruce G. Trigger, *The Children of Aataentsic: A History of the Huron People to 1660* (Montreal and Kingston: McGill-Queen's University Press, 1976), pp. 162, 163, 842.

33. Karl N. Llewellyn and E. Adamson Hoebel, *The Cheyenne Way: Conflict and Case Law in Primitive Jurisprudence* (Norman, Oklahoma: University of Oklahoma Press, 1941). See also John Henry Provinse, "The Underlying Sanctions of Plains Indian Cultures", thesis, University of Chicago, 1934; John C. Ewers, *The Blackfeet: Raiders on the Northwestern Plains* (Norman, Oklahoma: University of Oklahoma Press, 1958); and John C. Ewers, *The Horse in Blackfoot Indian Culture, With Comparative Material From Other Western Tribes* (Washington, D.C.: U.S. Government Printing Office, 1955).

34. Raymond W. Wood, *Contrastive Features of Native North American Trade Systems*, University of Oregon, Anthropological Papers, volume 4 (1972), pp. 153-169.

35. James Morrison, "The Robinson Treaties of 1850: A Case Study", research study prepared for RCAP (1994).

36. Delâge, "Epidemics, Colonization, Alliances" (cited in note 4).

37. Lajoie and Verville, "Treaties of Alliance" (cited in note 4).

38. Delâge, "Epidemics, Colonization, Alliances" (cited in note 4), references omitted.

39. Lajoie and Verville, "Treaties of Alliance" (cited in note 4).

40. Michael K. Foster, "Another Look at the Function of Wampum in Iroquois-White Councils", in *The History and Culture of Iroquois Diplomacy: An Interdisciplinary Guide to the Treaties of the Six Nations and Their League*, ed. Francis Jennings, William N. Fenton, Mary A. Druke, and David R. Miller (Syracuse: Syracuse University Press, 1985), p. 110.

41. See the presentation by Onondaga scholar Oren Lyons in RCAP transcripts, Akwesasne, Ontario, 3 May 1993. Transcripts of the Commission's hearings are cited with the speaker's name and affiliation, if any, and the location and date of the hearing. See *A Note About Sources* at the beginning of this volume for information about transcripts and other Commission publications.

42. House of Commons, Special Committee on Indian Self-Government, *Indian Self-Government in Canada, Report of the Special Committee* (Ottawa: Queen's Printer, 1983), back cover.

43. Foster, "Another Look at the Function of Wampum" (cited in note 40), pp. 100, 112.

44. See "Treaty of Peace Between the French, the Iroquois, and Other Nations". Written originally in French and Latin, the text was translated into English and published in Thwaites, *Travels and Explorations* (cited in note 11), volumes 27 and 28. The account is reprinted in Jennings, *Iroquois Diplomacy* (cited in note 40), pp. 137-153.

45. Francis Jennings, "Iroquois Alliances in American History", in *Iroquois Diplomacy*, p. 38.

46. Bill Wicken and John G. Reid, "An Overview of the Eighteenth-Century Treaties Signed Between the Mi'kmaq and Wuastukwiuk Peoples and the British Crown,

1725-1928", research study prepared for RCAP (1993). Indeed, the treaty relationship involving the Wuastukwiuk people began well before 1725, stretching back to the late 1600s and including their presence at a treaty signing in 1713.

47. *Johnson* v. *M'Intosh*, 8 Wheaton 543 (1823) at 573 and following.

48. Delâge, "Epidemics, Colonization, Alliances" (cited in note 4).

49. Olive Patricia Dickason, "Louisbourg and the Indians: A Study of Race Relations of France 1713-1760", *History and Archaeology* 6 (Ottawa: Parks Canada, 1976).

50. Stewardship is used here to underscore the Indian nations' rootedness in the land. As we saw in our discussion of the Blackfoot Confederacy in Chapter 4, the Indian nations saw themselves as having a profound connectedness with the land, animals, water and plants, as evidenced by their creation stories (which feature long-ago marriages of human and other beings).

51. Lajoie and Verville, "Treaties of Alliance" (cited in note 4).

52. Lajoie and Verville, "Treaties of Alliance".

53. Many of the early written treaties contained no such references, however.

54. Loron Sagourrat to Dummer (no date), in *Documentary History of the State of Maine*, volume 23 (Portland: 1916), p. 208, quoted in Wicken and Reid, "An Overview of the Eighteenth-Century Treaties" (cited in note 46).

55. "Traité de paix entre les anglois et les abenakis, 1727", in *Collection de manuscrits*, volume 3 (Quebec City: 1884), p. 135, quoted in Wicken and Reid, "An Overview of the Eighteenth-Century Treaties".

56. The term is misleading to the extent that it implies uniformity, for in fact treaties were signed with different Aboriginal nations at different times and with substantially different provisions.

57. Sakorarewate (Tom Porter), "Men Who Are of the Good", *Northeast Indian Quarterly* (1988), pp. 8-12.

58. For a discussion of the contribution of Amerindian crops to the world's food economy, see Jack Weatherford, *Indian Givers: How the Indians of the Americas Transformed the World* (New York: Ballantine Books, 1988), pp. 59-78.

6

Stage Three: Displacement and Assimilation

In the waning decades of the 1700s and the early years of the 1800s, it became increasingly clear that a fundamental change was occurring in the relationship between Aboriginal and non-Aboriginal peoples. Confined initially to the eastern part of the country, change in the relationship was soon experienced in central Canada as well. At least three factors were at work.

The first was the rapid and dramatic increase in the non-Aboriginal population, owing to the massive influx of Loyalists after the American Revolution and swelling immigration, especially from the British Isles. Beginning in the 1780s, thousands of Loyalists poured into the Maritimes, sharply increasing pressures on the Aboriginal land and resource base. The landless new immigrants pursued agriculture and the export of timber, and although parcels of land had been set aside for the Indian peoples of the region, squatting and other incursions on the Aboriginal land base inevitably occurred. At that time the Mi'kmaq and Maliseet populations were also declining because of disease and other factors, and colonial governments appeared to have neither the will nor the means to counter illegal occupation of the remaining lands of the indigenous population.

Lower Canada, with its long-established reserve land policy, was not drastically affected by in-migration. It was different in Upper Canada, however, where reserves were fewer and population pressures proportionately greater. It is estimated that by 1812 the non-Aboriginal population of that colony outnumbered the Aboriginal population by as much as 10 to 1, with the ratio increasing further in the ensuing decades.[1] Illegal squatting occurred on Indian lands, as in the Maritimes, but it was more common for purchases of Indian lands to be made through the negotiation of treaties. Purchased lands were then made available by the Crown for non-Aboriginal settlement.

In addition to the dramatic shift in population ratios, a second and equally important factor undermining the more balanced relationship of the early contact period was change in the colonial economic base. The fur trade was already declining in eastern Canada by the latter part of the 1700s. The 1821 merger of the two major rivals, the North West Company and the Hudson's Bay Company, signalled the end of the Montreal-based fur trade and with it the relative prosperity of the Aboriginal nations dependent on it. The fur trade continued to be important in the north and west for many more decades – indeed, it did not begin in what became British Columbia until the late 1700s.[2] But in eastern Canada, the fur trade – and the era of co-operative division of labour between Aboriginal and non-Aboriginal people it represented – were over.

It was replaced by a new situation, one in which the economies of the two peoples were increasingly incompatible. More and more, non-Aboriginal immigrants were interested in establishing permanent settlements on the land, clearing it for agricultural purposes, and taking advantage of the timber, fish and other resources to meet their own needs or to supply markets elsewhere. They were determined not to be frustrated or delayed unduly by those who claimed title to the land and used it in the Aboriginal way. In something of a return to earlier notions of the 'civilized' and 'savage' uses of land, Aboriginal people came to be regarded as impediments to productive development. Moreover, as Aboriginal economies declined because of the loss of the land, the scarcity of game and the continuing ravages of disease, relief payments to alleviate the threat of starvation became a regular feature of colonial financial administration. In short order, formerly autonomous Aboriginal nations came to be viewed, by prosperous and expanding Crown colonies, as little more than an unproductive drain on the public purse.

The normalization of relations between the United States and Great Britain following the War of 1812 was a third factor in the changed relationship that emerged at this time. No longer courted as military allies, a role they had enjoyed for two centuries, First Nations were forgotten for their major contributions in the many skirmishes and battles that were so important in earlier decades. By 1830, in fact, responsibility for 'Indian policy' – formerly a quasi-diplomatic vocation – had been transferred from military to civil authorities. The preoccupation of policy makers turned to social rather than military concerns, and soon schemes were devised to begin the process of dismantling Aboriginal nations and integrating their populations into the burgeoning settler society around them.

In retrospect it is clear that the non-Aboriginal settlers, because of their sheer numbers and economic and military strength, now had the capacity to impose a new relationship on Aboriginal peoples. Their motive for so doing was equally clear: to pursue an economic development program increasingly incompatible with the rights and ways of life of the Aboriginal peoples on whose lands

this new economic activity was to take place. To justify their actions, the non-Aboriginal settler society was well served by a belief system that judged Aboriginal people to be inferior. Based originally on religious and philosophical grounds, this sense of cultural and moral superiority would be buttressed by additional, pseudo-scientific theories, developed during the nineteenth century, that rested ultimately on ethnocentric and racist premises.

The influx of large numbers of settlers, soldiers, administrators and others into lands inhabited by indigenous populations was not, of course, unique to North America. It was a phenomenon of a period of history when European colonial empires expanded worldwide in the second wave of a movement that began in the late 1400s. Nor was the colonization process a uniform one, for it took different forms in different parts of the world.

In Brazil, for example, the Portuguese imported African slaves to produce crops such as sugar on large plantations run by small numbers of European settlers. In Mexico and much of the rest of Latin America, 'mixed' colonies developed, where a substantial minority of non-indigenous settlers sought to create societies modelled on the Spanish homeland but with an emphasis on absorbing the indigenous population. In other parts of the world, the colonial presence took the form of small settlements involving few settlers and few claims to territory, but emphasizing the development of trading relationships. And in India, the British governed a vast dependency through a relatively small, alien administration.[3]

Canada, Australia, New Zealand and the United States represented another model of colonial expansion. As with much of Africa, there were few pre-existing centralized state structures among the indigenous inhabitants.[4] In addition, Aboriginal population density was low – or fell precipitously as a result of disease after contact – and geographic conditions were considered ideal for European agriculture and ways of life. These territories were targeted for settlement. Not only were they considered worthless without an increase in the size and 'civilization' of the workforce, they also served as safety valves for the rapidly growing population of European home countries. Europe could usefully shed its poorest citizens by offering them land and work in the colonies. Once installed there, they became low-wage producers and high-price consumers of imports from the home economy. Under this policy, even 'gaol birds' could be made useful; prisons were emptied and their populations shipped by the boat load to Virginia and Georgia in the eighteenth century and Australia in the early nineteenth century.

Regardless of the approach to colonialism practised, however, the impact on indigenous populations was profound. Perhaps the most appropriate term to describe that impact is 'displacement'. Aboriginal peoples were displaced physically – they were denied access to their traditional territories and in many cases actually forced to move to new locations selected for them by colonial authorities.

They were also displaced socially and culturally, subject to intensive missionary activity and the establishment of schools – which undermined their ability to pass on traditional values to their children, imposed male-oriented Victorian values, and attacked traditional activities such as significant dances and other ceremonies. In North America they were also displaced politically, forced by colonial laws to abandon or at least disguise traditional governing structures and processes in favour of colonial-style municipal institutions.

In Canada, the period saw the end of most aspects of the formal nation-to-nation relationship of rough equality that had developed in the earlier stage of relations. Paradoxically, however, the negotiation of treaties continued, but side by side with legislated dispossession, through the *Indian Act*. Aboriginal peoples lost control and management of their own lands and resources, and their traditional customs and forms of organization were interfered with in the interest of remaking Aboriginal people in the image of the newcomers. This did not occur all at once across the country, but gradually even western and northern First Nations came under the influence of the new regime.

In this chapter, we begin with a brief description of the early legislation that sought to 'civilize' and 'enfranchise' the Aboriginal population in the period leading up to and immediately following Confederation.[5] Second, we turn to a short description of the development of Métis culture, economy and self-government in the 1800s. The period of contact and co-operation described in the previous chapter produced not only a unique relationship between Aboriginal and non-Aboriginal people, but also unique Aboriginal populations of mixed ancestry and culture – the Métis Nation in the west and other Métis communities in the east.[6] Pressed by the rapid westward expansion of the Canadian federation, the Métis Nation became part of the Canadian nation-building process in the area that would become the prairie provinces and the Northwest Territories.

Third, we describe continuation of the treaty-making process in the 1800s and early 1900s, beginning in Ontario and moving west and north. From the Crown perspective it seemed clear that these treaties were little more than real estate transactions designed to free Aboriginal lands for settlement and resource development. From the Aboriginal perspective, however, the process was broader, more akin to the establishment of enduring nation-to-nation links, whereby both nations agreed to share the land and work together to maintain peaceful and respectful relations. Thus, while the treaty process continued to have the trappings of a nation-to-nation relationship among equals, as before, the intentions and perspectives of the two sides diverged. Sharp differences in perspective about the treaty process continue to divide Aboriginal and non-Aboriginal governments today.

The fourth section of this chapter begins with a discussion of Confederation, which was a momentous event for non-Aboriginal society but of little positive significance for Aboriginal peoples. Described as a federation of

the provinces or a compact between two peoples, the English and the French, it completely excluded Aboriginal peoples as active participants. They and their rights and privileges seem to have disappeared almost completely from the consciousness of Canadians, except for the provision in section 91(24) of the *Constitution Act, 1867* making "Indians, and Lands reserved for the Indians" a federal responsibility, an object of future federal legislation. Through the vehicle of the *Indian Act* and related legislation, section 91(24) served as the source of authority for federal government intervention in the internal affairs of Indian societies, as it attempted to promote the eventual break-up of Aboriginal societies and the assimilation of Aboriginal people into mainstream – that is, non-Aboriginal – society.

From the early nineteenth century until about the end of the 1960s, displacement, the downgrading of the relationship, and an overall devaluing of the shared history of Aboriginal and non-Aboriginal peoples in the northern half of the North American continent was accepted in mainstream Canadian society. It is only recently that the full history of the relationship has begun to come to light and an attempt made to come to grips with the implications of the displacement period. Although the descriptions that follow do not paint an attractive picture, these images must be grasped and understood if the current period of negotiation and renewal is to succeed in restoring a balanced relationship between Aboriginal and non-Aboriginal people in Canada.

1. The Imposition of a Colonial Relationship

The general peace ushered in by the end of the War of 1812 and the Napoleonic wars set the stage for dramatic changes in the relationship between Aboriginal and non-Aboriginal people. As immigrants poured in and as the British home government "swept away the paupers" – its surplus people, no longer needed for military campaigning – the settler population in eastern and central Canada grew rapidly, soon outstripping that of the Aboriginal nations in both areas. The fur trade and traditional harvesting economy declined in importance and the need for Aboriginal nations as military allies waned, and soon Aboriginal people were living on the margins of the new colonial economies, treated less and less as nations worthy of consideration in the political councils of the now secure British colonies.

Former enemies of the victorious British, the Mi'kmaq and Maliseet, were simply ignored, left to find their own way in the rapidly changing world. Dispossessed of much of their land, separated from resources and impoverished, they were also ravaged by disease, and in the early 1800s they seemed to be on the road to virtual extinction.

In Upper Canada, however, in the potentially rich agricultural heartland of the emerging nation, Aboriginal peoples were treated differently. Thus, the Indian affairs department consistently applied the principles of the *Royal Proclamation of 1763*, recognizing Aboriginal rights to land and self-government. This led to a series of treaties, signed between 1815 and 1825, that cleared the southern part of the colony for settlement. With the two Robinson Treaties in 1850, further territory north of the Great Lakes was opened for resource exploitation and, later, settlement.

Since the *Royal Proclamation of 1763*, the relationship between Aboriginal nations and the British Crown had been one of co-operation and protection. As described earlier, in exchange for co-operation in the partnership that characterized the relationship between them at that time, the King had extended royal protection to Aboriginal lands and political autonomy. After 1830, however, following the change in the relationship just described, a new policy, designed specifically to help Aboriginal people adjust to the new economic and political realities, took hold. Partly humanitarian, partly pragmatic, its goal was to 'civilize' Aboriginal people through educational, economic and social programs delivered primarily by the Christian churches and missionary societies. Thus, the British imperial government, in association with protestant mission societies in the province of Upper Canada, embarked on the new policy of civilization with the willing assistance of many Aboriginal nations.[7] Communities in the southern part of Upper Canada were to be located on their reserves in serviced settlement sites, complete with houses, barns, churches and schools, and given training in agriculture and the other arts and crafts of settler life.

Indian reserves were not a new factor in relations between the Aboriginal peoples and the newcomers to North America. The French had established the practice of setting aside lands for their Indian allies in New France, believing that a settled and secure environment would promote adoption of Christianity. The Jesuits established the first true reserve in this sense in New France, at Sillery, as early as 1637. Others soon followed.[8] Thus, when the British embarked on their own program of attempting to convert and civilize the Indians of what is now southern Ontario, they had a precedent to draw upon.[9]

Throughout the nineteenth century and into the twentieth, first the British Crown and then the new dominion of Canada entered into treaties in Ontario, the prairie provinces and parts of the north, under which Indians agreed to the creation of reserves (along with other benefits) in exchange for their agreement to share their lands and resources with the newcomers. These treaties, described later in this volume, were modelled to a considerable extent on the Robinson treaties (also discussed later), were in written form, and were quite specific about the amount of land to be included in a reserve and the fact that traditional Indian hunting, fishing and trapping activities were not to be interfered with.

Letter to Queen Victoria from Louis-Benjamin Peminuit Paul, received in the Colonial Office, London, 25 January 1841.

To the Queen

Madame: I am Paussamigh Pemmeenauweet...and am called by the White Man Louis-Benjamin Pominout. I am the Chief of my People the Micmac Tribe of Indians in your Province of Nova Scotia and I was recognized and declared to be the Chief by our good friend Sir John Cope Sherbrooke in the White Man's fashion Twenty Five Years ago; I have yet the Paper which he gave me.

Sorry to hear that the king is dead. I am glad to hear that we have a good Queen whose Father I saw in this country. He loved the Indians.

I cannot cross the great Lake to talk to you for my Canoe is too small, and I am old and weak. I cannot look upon you for my eyes not see so far. You cannot hear my voice across the Great Waters. I therefore send this Wampum and Paper talk to tell the Queen I am in trouble. My people are in trouble. I have seen upwards of a Thousand Moons. When I was young I had plenty: now I am old, poor and sickly too. My people are poor. No Hunting Grounds – No Beaver – No Otter – no nothing. Indians poor – poor for ever. No Store – no Chest – no Clothes. All these Woods once ours. Our Fathers possessed them all. Now we cannot cut a Tree to warm our Wigwam in Winter unless the White Man please. The Micmacs now receive no presents, but one small Blanket for a whole family. The Governor is a good man but he cannot help us now. We look to you the Queen. The White Wampum tell that we hope in you. Pity your poor Indians in Nova Scotia.

White Man has taken all that was ours. He has plenty of everything here. But we are told that the White Man has sent to you for more. No wonder that I should speak for myself and my people.

The man that takes this over the great Water will tell you what we want to be done for us. Let us not perish. Your Indian Children love you, and will fight for you against all your enemies.

My Head and my Heart shall go to One above for you.

Pausauhmigh Pemmeenauweet, Chief of the Micmac Tribe of Indians in Nova Scotia. His mark +.

Source: Ruth Holmes Whitehead, *The Old Man Told Us: Excerpts from Micmac History 1500-1950* (Halifax: Nimbus Publishing Limited, 1991), pp. 218-219.

Not all reserves in Canada were created by treaty, however. Those in Quebec were established by grants from the French Crown to missionary orders, on the theory that the Crown had all right and title to the lands in question. Some in Ontario were created by the purchase of lands outside the traditional territories of the Indian peoples for whom they were intended. The Six Nations reserve at Brantford falls into this category. Purchased originally from the Mississauga of the Credit in 1784, it was granted to the Six Nations by the Crown in 1788. Other reserves were created by order in council as circumstances required, and a few others were established by trust agreements with missionary societies, which were to hold the lands for the benefit of their Indian charges. There were even a few instances of Indian bands purchasing privately held lands using their own monies, with the reserves then being held by the Crown for their benefit.[10]

In the Atlantic region there were no treaties under which reserves were created. On the cession of Acadia to Great Britain by France, the British view was that there was no requirement to treat with the Mi'kmaq and Maliseet nations for their lands. Never protected by imperial authorities to the same extent as the western First Nations, the relatively small remaining Aboriginal population in the Maritimes was scattered and isolated and, by the early 1800s, decimated by epidemics and considered to be headed for extinction. Indian administration was decentralized, and there was no imperial Indian department,[11] so there was no regular allocation of imperial monies for Indian people and their needs.

Reserves were established by colonial authorities as a result of Indians' petitions or their sorry circumstances, rather than the policy of a central authority. Accordingly, a few reserves were set aside in New Brunswick by licences of occupation granted to individual Indians on behalf of them and their families or the band they represented. These licences were then confirmed by order in council. In Nova Scotia, on the other hand, lands were set aside by order in council to be held in trust for Indians as if they were owned by them. In Prince Edward Island, a private benefactor allowed Indians to live on one reserve. Later, private land was purchased using government funds and other reserves were created.[12] No reserve was created in Newfoundland until 1984, because that province did not recognize the existence of status Indians within its boundaries following its entry into Confederation in 1949.[13]

Unlike the reserves in Ontario and western and northern Canada, however, imperial and colonial officials did not feel it necessary in Quebec and the Maritimes to follow the surrender requirements of the *Royal Proclamation of 1763*, so the local Indian commissioners appointed to protect and supervise Indian land transactions also had the power to dispose of reserve land without Indian consent. In all cases, however, and wherever they are located, Indian reserves have been plagued since their creation by illegal non-Indian squatters and the unlicensed use and exploitation of timber and other resources on Indian

Memorial to His Excellency Sir Edmund Walker Head from the Oneida Indians of Muncey Town and other Bands on the River Thames, 1858

It is with feelings of sorrow that we hear of the act passed for the purpose of allowing the Indian to enfranchise if he feels desirous of doing so, we are sorry that such an inducement is held out to separate our people. If any person availing himself of this enfranchisement act should fail to do well and lose his little piece of ground – he is forbidden to ever return to his tribe. All red men are brethren and our hearts would bleed to see one of our brethren wandering about the highway without the right of returning to his tribe when in distress.

Source: National Archives of Canada, Record Group 10 (Indian Affairs) [hereafter NAC RG10], volume 245, part 2, number 11801-11900, microfilm reel C12339.

lands. Thus, as described in our later discussion of the *Indian Act*, protective legislation was passed in the nineteenth century to deal with these and related problems. Indeed, the *Indian Act* is itself the classic example of protective legislation.

British Columbia presents an entirely different and still problematic situation. Between 1850 and 1854, William Douglas, governor of the Vancouver Island colony, entered into 14 treaties with the Indian peoples of southern Vancouver Island.[14] Under these treaties, provision was made for the creation of reserves on terms similar to those in effect in Ontario and, later, western and northern Canada. A shortage of funds to compensate Indian peoples for their lands and a growing unwillingness among the settler population to recognize Indian rights to land hampered the reserve policy. Later, colonial authorities adopted a policy of allocating very small reserves to Indian bands. Pressured by the federal government to enlarge the reserves, after the province's entry into Confederation in 1871, British Columbia refused, in keeping with Canadian policy. A complicated series of federal/provincial negotiations, commissions of inquiry and parliamentary hearings led eventually to resolution of the issue in 1938. However, except for a portion of Vancouver Island (the Douglas treaties) and the northeastern corner of the province (Treaty 8), most of the land in British Columbia is not covered by treaties.[15]

In addition to creating reserves, in Upper Canada the policy to civilize the Indians was supplemented by legislation, the 1857 *Act to Encourage the Gradual Civilization of the Indian Tribes in this Province*. It provided for the voluntary enfranchisement – freedom from Indian status – of individuals of good character as determined by a board of examiners. Upon enfranchisement, volunteers would no longer be considered 'Indians' and would acquire instead the rights common to ordinary, non-Aboriginal settlers. In addition, they would take a

The Enfranchisement of Elias Hill

In March 1859, Elias Hill, having volunteered for enfranchisement under the terms of the act of 1857, was examined by a board composed of Mr. W.H. Morgan, Special Commissioner on Six Nation Debts, and the Rev. A. Nelles at the offices of the Grand River Navigation Company.

Hill was then 23 years of age and by trade a shoemaker who had for the last five years been in the employ of Mr. J.W. Weyms of Brantford. He was a member of the Lower Mohawks. He had been educated over the course of nine years at the Mohawk Institution, where he had learned his trade.

The examination was brief. He was asked, "How many divisions of the Globe are there?" and answered, "5 – Europe, Asia, Africa, America & Australia." That was followed by a reading of the fourteenth chapter of the gospel according to St. John, "which he did in a most satisfactory manner." And finally he "...was also asked as to his spelling in several words which he also did without a blunder." Hill's employer was then called in and assured the board that Elias "...is steady & civil not given to drinking or running about." Indeed, "There is not a better workman in town." James Loughrey, Justice of the Peace, also testified to his good character.

The Board recommended that Elias Hill be enfranchised.

This recommendation was, as it turned out, just the beginning of the story. Under the act, the newly enfranchised Hill was entitled to 50 acres of reserve land. Pressed on one side by demands from Hill, the department faced the intransigence of the Six Nations on the other. Meeting at the Onondaga Longhouse in 1861, the council protested "against any of the reserve being given to him" because they did not wish any of their property "to be granted to any of our people under the Act." The Indian agent, David Thorburn, reported that "their mind appeared to be considerably

portion of tribal land with them. They and such property would no longer be 'Indian' in the eyes of the law. Reformers saw enfranchisement as a privilege, not something to be acquired lightly.

The enfranchisement policy was a direct attack on the social cohesion of Aboriginal nations, and it shattered the partnership for development that had existed between the Crown and Aboriginal peoples up to that point. Although Aboriginal people had co-operated with many aspects of the civilization policy – even to the point of financing it in some instances – enfranchisement was wholly unacceptable. Importantly, it was a threat to the integrity and land base of communities, an attempt to "break them to pieces" one leader charged.

disturbed on the subject." The department was further stymied by the fact that it had no idea who held what land on the reserve and whether any of it was unoccupied and thus available for Hill. Hill, for his part, was willing to take cash "at fair valuation" instead of the property.

There the matter stayed for another 13 years. Finally, in 1874, the department brought the matter forward but found itself no further ahead. The valuation of the property was then some $1900. That was too large a sum, the agent advised, to turn over to Hill. A better course would be to reverse the enfranchisement for Hill's "...occasional Intemperance renders it very doubtful, if a large sum of Money would be a real benefit to him."

There was no going back, however, so the department approached the council again in July 1875, but this time requested only 30 acres. The council would still not budge. The acting speaker, A.H. Burning, reported that the council "unanimously decided to refuse the request – further they were never consulted in reference to the Enfranchisement Act, but of which they disapproved, and now they have no land to spare for such a purpose and decline to make a surrender." Exactly a year later the department tried for the last time. Could it have land or money for Hill? Again the council, through Burning, "declined to grant either land or money for Elias Hill". They would, however, have him back; they would, indeed, "endeavour to induce him to return to the Six Nations."

The department capitulated. In August 1876 it offered, and Hill accepted, $333 "in full of his claim for land, as an Enfranchised Indian under the Act."

Source: NAC RG10, Red Series, volume 1918, "To the Superintendent General of Indian Affairs from J. Gilkison, 22 August 1876."

Aboriginal nations petitioned the imperial government for repeal of the Gradual Civilization Act and were suspected by colonial authorities of organizing a boycott to prevent Indians from seeking enfranchisement. The Six Nations council, for example, declared publicly its opposition to "their people taking the advantages offered" by the act.

For their part, Indian affairs officials were determined to move educated Indians away from what they saw as the backward culture of the reserves and were entirely unsympathetic to Indian concerns or complaints. Only one man, Elias Hill, is known to have volunteered for enfranchisement over the two decades following passage of the act. The evident failure of the voluntary enfranchisement

policy led the Indian affairs department to campaign throughout the remaining pre-Confederation period for an end to the independence of the Aboriginal governments that the *Royal Proclamation of 1763* had apparently promised to protect. "Petty Chieftainship" should be abolished, the government was advised, and a "Governor and a sufficient number of magistrates and officers" put in charge of reserve communities.[16] Following Confederation, drastic measures along the lines proposed by Indian affairs officials were enacted through the *Indian Act* and related legislation. As events would ultimately reveal, these measures also would fail to accomplish their avowed goal of undermining Aboriginal self-government, although they would put reserve governments and Aboriginal cultures under pressures from which they are beginning to escape only now.

2. The Forging of Métis Identity

The usual emphasis of Métis history by geographical area and chronological period is on the Red River Settlement and the Canadian prairies for the years between 1869 and 1885 – the time of Louis Riel's leadership. Both emphases have undoubted importance to Canadian history in general and to the history of the people identified as 'the Métis' through most of the twentieth century. A wider, longer view is important, however, to place that population in its broader context. (See Volume 4, Chapter 5 for a fuller account of Métis history.)

The first emergence of Métis people was not inadvertent. Intermarriage of newcomers with First Nations people was a deliberate strategy of seventeenth-century church and state officials in New France, as they intended to develop a powerful presence in North America to counter that of their European rivals, the Dutch and the English. From the standpoint of the French state, newcomers intermarrying with Aboriginal women and thus leading them to Christianity and all that was considered superior in French peasant culture, would secure the expanding presence of France by assimilationist influence. And since Aboriginal protocols of diplomacy and trade included the custom of intermarriage with allies, the assimilationist project was expected to be helpful with the expanding trade sought by newcomers interested in fur. The British would later experiment with a similar policy in Nova Scotia.

France experienced results beyond its capacity to control in two respects. First, its influence expanded over vastly more territory than the French could ever hope to dominate by royal edict or troops. Second, France had to contend with the unexpected phenomenon of reverse assimilation, in the sense that the natives of France who became *coureurs de bois* to cement the all-important trading connections with Aboriginal people – learning their languages, intermarrying, and living among them – often remained there permanently. Officially, France ceased to sanction intermarriage after the 1670s, but so long as a fur trade was promoted

from Montreal, economic incentives encouraged the original dynamic.[17] Because promotion of the fur trade continued until 1821, a large Métis population developed throughout the Great Lakes basin. In the interim, of course, the Montreal merchants connected with the basin had become or were replaced by British subjects following the cession of New France to Great Britain in 1763.

As early as 1713, the British had gained a significant foothold on French territory in the present-day Maritime provinces by the Treaty of Utrecht, temporarily ending more than a decade of struggle for control of the continent. After 1714, the British tried to transform newly acquired Nova Scotia into an extension of New England, and they discouraged year-round occupation of Newfoundland and Labrador, preferring to see both new acquisitions occupied merely as seasonal adjuncts to the summer fishery launched from the British Isles. Inevitably some year-round communities were established, the largest on the island of Newfoundland. However, some fishermen ventured to Labrador. The people exploiting the cod and salmon fishery from ships were known as 'floaters'. The sojourners who worked onshore through the summer were called 'stationers'. Significant for the ethnogenesis of Métis people in Labrador was the British fishery equivalent of the French fur trade coureurs de bois. Fishermen taking up permanent residence came to be known as 'liveyers'. They were not floaters or stationers – no kind of sojourner – but live-heres, accepted by the Aboriginal people as persons prepared to adapt and for whom there was space as well as resources south of Lake Melville. In subsequent generations of isolation and continuing adaptation, they emerged as another Aboriginal people in their own right, virtually without interference from any but a small stream of assimilable newcomers well into the twentieth century.

The destination of Anglo-Europeans seeking to create a new Europe moved further west after the British acquisition of New France in 1763. The *Royal Proclamation of 1763* did not mention the Métis people or Métis communities that had developed in the territory that was deemed to be 'Indian' rather than 'settled'. Presumably, if any thought were given to their existence, they were to be dealt with as 'Indians' wherever such persons lived 'with' or 'as' First Nations people or Inuit.[18]

The matter the British never clarified so long as imperial officials administered Indian policy as an imperial interest, not to be tampered with by colonists (nearly one full century, until 1850), was the defining difference between Aboriginal people so apparently European that they were taken to be 'settlers' rather than 'Indians'. The British insisted that Aboriginal people had to be part of a known Indian community to be counted as 'Indians', or, if living apart, as a community of their own, to be recognized by other Indian people as an 'Indian band' in its own right. Aboriginal people who did not meet either test were deemed to be "Half-caste squatters", dubious settlers in advance of legitimate settlement. The number of such cases encountered between 1763 and 1850

is unknown, perhaps unknowable, but the reports of imperial officials in the 1830s and 1840s suggest that the number was large enough to pose "a good deal of trouble to the Government if they had anything to claim under strict Treasury Regulations."[19] On this account, it would appear that the Métis population of eastern Canada was truly significant in both numbers and extent.

Even so, the usual practice of officials was merely to nudge Métis 'squatters' out of each new district as it came open for 'actual settlement'. Occasionally they persisted, to be absorbed into the general population of later generations of settlers, or they persisted self-consciously apart, as for example near Peterborough, where the Burleigh Falls community of today traces its beginnings to Aboriginal origins well in advance of legal settlement. More typical were the people who responded to such discouragement by simply moving on, even further into the interior.

Centuries of contact in the fur trade deep in the interior of the continent meant that there were many destinations for migrants pushed westward. Dozens of Aboriginal communities existed 'between' the older First Nations societies and the fur trade outposts established by the transient merchants. Near each fur trade post occupied by sojourners were communities of permanent residents. Recent research has documented the development of Métis communities at no fewer than 53 such locations between 1763 and 1830.[20] Since pressure on their patterns of settlement and culture was as unrelenting in the wider Great Lakes basin as in southern Ontario, the flow of migration continued and tended to converge at the forks of the Red and Assiniboine rivers, where fur traders from Montreal had established a key transfer point for provisioning their western-most operations with locally procured pemmican, the dried buffalo meat fuel for the human power of the great canoes of the voyageurs.

The routes from the Great Lakes country made up one significant set of avenues converging on the Red River community. Another flowed from the north, stemming from the interactions of British traders and Indian people involved in the fur trade organized by the Hudson's Bay Company under a royal charter dating from 1670. The territory under the authority of the Hudson's Bay Company was huge. It extended throughout the entire Hudson Bay drainage basin, extending from the Rocky Mountains in the west and the Mackenzie Delta in the north-west to northern Labrador in the east and as far as present-day North Dakota in the south. Although neither the Hudson's Bay Company (HBC) nor the British Crown was interested in establishing settlements or assimilating First Nations people in the territory of the company's chartered monopoly, the same dynamics of trade and diplomacy that fostered intermarriage between European fishermen and fur traders and First Nations people in the east gave rise to a Métis population in the north-west as well.

From the standpoint of fur trade history, the ever expanding Hudson Bay-based trade of the HBC spelled certain conflict with the Montreal-based operations

of rival companies like the North West Company, even after the change in the Montrealers' connection from France to Britain. The certainty that such conflict would embroil Aboriginal people took a more threatening turn in 1810, when the HBC decided to sanction wholesale migration of farmers from Scotland to develop the agricultural potential of a vast tract astride the Montrealers' pemmican supply line in the Red River Valley. Métis people, whose establishment in the vicinity was attributable in large part to their flight from similar schemes elsewhere, organized with North West Company encouragement to resist this intrusion with force. In the famous Battle of Seven Oaks in 1816, they showed remarkable resolve to retreat no more. Their victory that day in June dramatized their proclamation of a "New Nation" that was no mere rhetorical affirmation.

Their success did interfere seriously with the HBC's settlement project, but the company was determined to defeat its Montreal rivals in trade. What followed from 1816 to 1821 was intense competition, with each firm meeting the other post for post and the two sets of employees scrambling for the prize of the trade, occasionally to the point of armed combat. By 1821 the contest between the companies was resolved in a merger. More than 100 posts became instantly redundant. Almost 1300 employees were no longer needed. Most Hudson's Bay Company and North West Company employees were sojourners who chose to return to their own homelands, but about 15 per cent were employees with fur trade families who found it more agreeable to retire to a location in the native land of their spouses and children. The area the HBC designated as the appropriate location for retirement was Red River. The arrival of hundreds of retirees in the early 1820s proved no threat to the Métis Nation developing there already. Indeed, the infusion tended to consolidate the earlier development.

There were initially two distinct mixed-ancestry populations in the west, each linked largely to one company or the other. The French-speaking Métis were associated mostly with the North West Company and its Montreal-based predecessors. The English-speaking 'half-breeds' were aligned chiefly with the premerger Hudson's Bay Company.[21] Historians have not reached consensus on how much the two streams of migration – the French 'Métis' and the English 'half-breeds' – merged into one population over the next several decades. They do agree, however, that many paths led to Red River, and what developed there between 1820 and 1870 represented a florescence of distinct culture in which both streams participated. The new nation was not simply a population that happened to be of mixed European/Aboriginal ancestry; the Métis Nation was a population with its own language, Michif (though many dialects), a distinctive mode of dress, cuisine, vehicles of transport, modes of celebration in music and dance, and a completely democratic though quasi-military political organization, complete with national flag, bardic tradition and vibrant folklore of national history.[22]

At the same time, the paths that led to Red River still had smaller, though similarly self-conscious Métis communities at their more northerly end points.

They, as well as the Red River Settlement, faced potential disruption of the continuity of their histories at the end of the 1860s as severe as any that had occurred in the east in the preceding century. This arose from two converging developments: the devolution of control over settler/Aboriginal relations from Britain to the colonies in 1850; and the colonies becoming increasingly well poised to form a political entity intent on seizing control of all of British North America. The first development occurred at the stroke of a pen; the second followed a more tortuous course of provincial and interprovincial politics spanning the decade after 1867.

When the dominion of Canada emerged in 1867, its government intended to make immediate headway on an expansionist agenda that was one of the primary reasons for Confederation. The government made plain its intention to take over all the territory of Hudson's Bay Company operations within a matter of weeks of the beginning of the first session of the first parliament.

Hearing rumours of the change, Aboriginal people expected accommodation of their interests: compensation for what might have to be diminished, retention of an essential minimum necessary to thrive in the new circumstances. The treaties Canada negotiated with First Nations in the 1870s (and later) had both characteristics – at least in principle. But the treatment accorded Métis people was complicated by their uncertain status in the eyes of British and Canadian policy makers (see Volume 4, Chapter 5).

The people of the Red River settlement hoped to clarify their situation even before the transfer of Hudson's Bay Company territory. The details of their resistance led by Louis Riel, and the negotiations that resulted in the *Manitoba Act* (also discussed in Volume 4, Chapter 5) are well known. Responding to pressure from Great Britain as well as to the community, which was approaching 12,000 people, Canada did appear to agree to an accommodation. There was a compensatory promise of "fair and equitable" grants to people whose access to open prairie was expected to be restricted by future development. There was a positive affirmation of continuity, in the form of secure tenure of all occupied lands, and a promise of 1.4 million acres to benefit "the children of the half-breed heads of families". Equally important, the negotiations leading to passage of the *Manitoba Act* and admission of the community to the Canadian federation as a province in its own right appeared to confirm the existence and importance of Métis self-government. The overall arrangement was so eminently satisfactory to the Métis provisional government that on 24 June 1870 its members ratified what many have since referred to as their 'treaty' without one dissenting voice.

The community did not persist as expected. Although the vitality of the Métis Nation today shows that a nucleus survived, the large, contiguous, self-governing Métis homeland in Manitoba never came into being. Within 10 years, nearly all positions of genuine political power had passed to newcomers;

The Buffalo Hunt

On the 15th day of June 1840, carts were seen to emerge from every nook and corner of the settlement, bound for the plains....

From Fort Garry the cavalcade and camp-followers went crowding on to the public road, and thence, stretching from point to point, till the third day in the evening, when they reached Pembina, the great rendez-vous on such occasions. ...Here the roll was called, and general muster taken, when they numbered on this occasion 1,630 souls; and here the rules and regulations for the journey were finally settled....

The first step was to hold a council for the nomination of chiefs or officers, for conducting the expedition. Ten captains were named, the senior on this occasion being Jean Baptiste Wilkie, an English Métis, brought up among the French...

All being ready to leave Pembina, the captains and other chief men hold another council, and lay down the rules to be observed during the expedition. Those made on the present occasion were:–

1. No buffalo to be run on the Sabbath-day.
2. No party to fork off, lag behind, or go before, without permission.
3. No person or party to run buffalo before the general order.
4. Every captain with his men, in turn, to patrol the camp, and keep guard.
5. For the first trespass against these laws, the offender to have his saddle and bridle cut up.
6. For the second offence, the coat to be taken off the offender's back, and be cut up.
7. For the third offence, the offender to be flogged.
8. Any person convicted of theft, even to the value of a sinew, to be brought to the middle of the camp, and the crier to call out his or her name three times, adding the word "Thief" at each time.

Source: Alexander Ross, *The Red River Settlement: Its Rise, Progress, and Present State* (Edmonton: Hurtig Publishers, 1972), pp. 245, 248-250.

much of the original Métis population had dispersed; and the minority that remained was largely landless, a marginal proletariat in its own homeland. The reasons for, and the consequences of, this frustration of Métis Nation expectations in Manitoba are discussed in Volume 4, Chapter 5.

The poignancy, irony and special relevance of the Manitoba experience to Métis people beyond Manitoba is that resentful Métis people migrated, mainly westward and northward, in the 1870s and 1880s to remote communities that were already demanding Manitoba Acts of their own. What those communities

received was far less than even the disappointing benefits of the *Manitoba Act.* Further land was distributed, nominally at least, to Métis of the Northwest Territories, under a statute called the *Dominion Lands Act,* but the process was no more successful than the Manitoba process had been in terms of assuring satisfactory land-based Métis communities. In some areas, especially in the east, no attempt to recognize or deal with Métis Aboriginal rights was ever made.

The federal government's suppression and neglect of Métis aspirations was demonstrated most dramatically by its military destruction of Batoche in 1885, in response to the Saskatchewan Métis' desperate step of asking Louis Riel to form a second provisional government based there. Both Métis and Plains Indians were deeply concerned by the relentless influx of newcomers to the prairies, the threat this posed to their lands and ways of life, and the sudden disappearance of the buffalo in the 1880s. While the federal government dithered in coming to grips with Métis and Indian grievances, Riel proceeded to form a provisional government. Under the leadership of Gabriel Dumont, a military force of plainsmen was also formed, but the federal government countered by sending a strong military expedition to the north-west in the spring of 1885. The Métis forces were crushed at Batoche, and Riel was hanged, after being convicted of treason, at Regina on 16 November 1885. Big Bear and Poundmaker, who had provided strong leadership to the Plains Indian forces, were arrested and sentenced to three years' imprisonment.

The administrative pattern for dealing with Métis people after the trial and execution of Riel for his alleged crime of treason was to issue orders in council creating commissions to convene the Aboriginal people of a district for the purpose of securing adherence to an existing treaty or negotiating a new one. At the conclusion of the proceedings, persons included on treaty lists as 'Indians' would receive a small cash gratuity and the promise of inclusion in the benefits accorded to the other persons of that particular 'Indian band'. Métis people of the same district would have the option as individuals to join treaties or receive 'half-breed' scrip redeemable in land or a cash gratuity – nothing more. All told there were 14 such commissions canvassing western Canada. The last operated in the Mackenzie River district in 1921.

The process had been condemned from the beginning. No less an official than A.M. Burgess, deputy minister of the interior from the 1870s until nearly the end of the century, reported in 1895 that "the state of the half-breed population of Manitoba and the North-West has not only not improved since the time of the transfer of the country to Canada in 1870 but that it has gradually become worse...".[23] Still, no other accommodation was contemplated. Canada did not recognize Métis communities as such. Canada defined Métis rights in purely individual terms, the one-time-only claim that certain 'half-breeds' might make for scrip. When they received that gratuity, any potential claim arising from their aboriginality was deemed to be 'extinguished'.

Inexplicably, Métis communities beyond the reach of the *Manitoba Act* and the *Dominion Lands Act* did not even receive that consideration. Thus, the historical claims of many Métis people across Canada today have their basis in the inadequacy of the scrip system dating from the 1870s and '80s. For others, it is a matter of their Aboriginal rights never having been recognized or dealt with. Canada's belated recognition in 1992 of Louis Riel as a father of Confederation for his role in the Manitoba provisional government of 1869-1870 is a significant but small admission of a larger pattern of grievances that calls for more substantive remedies in the future.

3. Treaty Making in Ontario

After the War of 1812, colonial powers no longer felt the need to maintain their treaties and alliances as they had formerly, and instead they turned their attention to obtaining Indian lands for settlers, particularly agricultural land for the United Empire Loyalists in southern Ontario. So began a new and intensive policy of purchasing Indian lands. From 1815 to the 1850s, there were literally hundreds of land transactions, whereby First Nations, many of which had previously made treaties of alliance, peace and friendship with the Crown, transferred their land to the Crown.[24]

In all these land transactions, the Crown's purpose was to secure First Nations lands for settlement and development. In some, and perhaps many, of these transactions, the Indian nations thought they were conveying their land to the Crown for the limited purpose of authorizing the Crown to 'protect' their lands from incoming settlement:

> Our Great Father...said: 'The white people are getting thick around you and we are afraid they, or the yankees will cheat you out of your land, you had better put it into the hands of your very Great Father the King to keep for you till you want to settle. And he will appropriate it for your good and he will take care of it; and will take you under his wing, and keep you under his arm, & give you schools, and build houses for you when you want to settle'. Some of these words we thought were good; but we did not like to give up all our lands, as some were afraid that our great father would keep our land... so we said 'yes', keep our land for us. Our great father then thinking it would be best for us sold all our land to some white men. This made us very sorry for we did not wish to sell it...'[25]

The loss of their lands and livelihoods impoverished the First Nations, despite the proceeds, which were marginal, from the sale of their lands:

> Though they have many thousand pounds in the hands of others, yet very little is at their own command. The amount of annuities paid

> to each, is about six to ten dollars a year, which does not supply their real wants one month, the rest of the time they fish, hunt or beg.[26]

The documents that conveyed Indian title to the Crown for specific land areas became standardized over time, although they were sometimes inaccurate.[27] Typically the Crown paid for these lands in goods delivered at the time the agreement or treaty was made, in the form of 'annuities' (presents). Revenues from the surrender and sale of Indian lands paid for education, health, housing and other services received by Indian nations, as well as making a substantial contribution to general government revenues:[28]

> To a significant degree the Mississauga and Chippewa [and the Ojibwa generally] financed the foundation of Upper Canada's prosperity at the expense of their self-sufficiency and economic independence. Government profits in the nineteenth century from the sale of Indian land amounted to the difference between the purchase price and the fair market value... If the Mississauga and Chippewa had received market value for their lands, the British treasury would have been obligated to finance the development of Upper Canada while the aboriginal population would have become the financial elite of the New World.[29]

After the initial purchase of land, there were invariably second or third purchases, and gradually, as the sale of their lands progressed, First Nations were confined to smaller and smaller tracts, typically in areas that were least suited to European settlement, agriculture or resource extraction. At the same time, the economies and resource use patterns of First Nations were undermined.

3.1 The 1836 Manitoulin and Saugeen Treaties

Sir Francis Bond Head, the lieutenant governor of Upper Canada between 1836 and 1838, was strongly sceptical of the prevailing civilization policy, especially the idea of establishing model farms and villages where Indian people would come under 'civilizing' influences. He was, however, interested in securing Indian lands for non-Aboriginal settlers. At a large gathering of Ojibwa and Odawa people at Manitoulin Island in August 1836 – called for the purpose of making the annual distribution of presents – he proposed two major land cessions. One involved the land of the Lower Saugeen Peninsula, the territory of the Saugeen Ojibwa, whom he proposed move either to the Manitoulin Island region or to the northern end of what is now called the Bruce Peninsula, in the area north of Owen Sound. There they would be protected and given assistance with housing and equipment. After some initial resistance to the proposal, the Saugeen Ojibwa agreed to the proposal. Some 607,000 hectares of land were signed over, and a move to the Bruce Peninsula area ensued.[30]

The second territory involved the many islands of the Manitoulin chain, which were to be ceded to the Crown under the proposal, but with the promise that the region would be protected as Aboriginal territory. Bond Head believed that the model villages program would not succeed, in part because he thought that Indian hunters would not make a successful transition to farming. Instead, he proposed to provide a protected place where they could continue their traditional pursuits in a location far removed from non-Aboriginal influences. The abundant lands and resources of Manitoulin Island, he believed, would make a desirable place for Indian people from all over Upper Canada to reside. The island would become like a house with open doors, a house where even the Potawatomi from Wisconsin and Michigan could settle to avoid the efforts of the United States to move them to the west.

The treaty of 1836 made provision to set aside the Manitoulin Island area as a reserve, and some Indian people made the move to the island – perhaps some 1,000 to 1,400 persons by 1850 – but the government deemed this experiment a failure. By the early 1860s, the demand for land from non-Aboriginal interests led to a further initiative to gain control of the Manitoulin Island lands. In the 1861-62 period, agents of the Crown and the government of the Province of Canada approached the Odawa and Ojibwa nations of Manitoulin, seeking to release the government from its 1836 promise to reserve the lands exclusively for Indian use. The agents of the Crown assumed that the 1836 agreement gave the Crown title to the island, a premise rejected by the Indian nations, as expressed in this statement by Chief Edowishcosh, an Odawa chief from Sheshegwaning:

> I have heard what you have said, and the words you have been sent to say to us. I wish to tell you what my brother Chiefs and warriors, women and children say. The Great Spirit gave our forefathers land to live upon, and our forefathers wished us to keep it. The land upon which we now are is our own, and we intend to keep it. The whites should not come and take our land from us, they ought to have stayed on the other side of the salt water to work the land there. The Great Spirit would be angry with us if we parted with our land, and we don't want to make him angry. That is all I have to say.[31]

The negotiations conducted by commissioners William McDougall and William Spragge[32] in October 1862 were tense and difficult, with opposition particularly strong in the eastern portion of the island where the government's quest was deemed to be a betrayal of its 1836 promise. McDougall adjourned the proceedings over a weekend, "informing the Indians that those who were disposed to continue the negotiations would remain while those who had resolved to reject every proposition of the government might go home".[33] On the following

Monday, he presented a revised proposal excluding from the negotiations and subsequent agreement the territory and inhabitants of the eastern portion of the island. Since a majority of the island's Indian inhabitants resided in the east, the agreement to open the bulk of the island to non-Aboriginal settlement was struck with a minority of the Indian inhabitants.[34]

3.2 The Lake Huron and Lake Superior Treaties of 1850

In 1841 Upper and Lower Canada joined together to become the Province of Canada and subsequently leases were issued to companies to explore and mine in Ojibwa territories. Resistance by the Ojibwa to non-Aboriginal miners and surveyors had been evident for some time. From 1846 to 1849 hostilities simmered, and in 1849 Chief Shingwakonce and Chief Nebanagoching from Sault Ste. Marie addressed the governor general in Montreal, expressing their frustration with four years of failure to address their concerns about mining incursions on their lands:

> Can you lay claim to our land? If so, by what right? Have you conquered it from us? You have not, for when you first came among us your children were few and weak, and the war cry of the Ojibway struck terror to the heart of the pale face. But you came not as an enemy, you visited us in the character of a friend. Have you purchased it from us, or have we surrendered it to you? If so when? and how? and where are the treaties?[35]

On behalf of the Crown, Commissioner William Robinson proposed that treaties be made to pursue the objectives of settlement north of the lakes, to mine valuable minerals, and to assert British jurisdiction in the face of American incursions in the area.[36] In September 1850 negotiations for the Robinson Huron and Superior treaties were concluded. Ojibwa chiefs succeeded in obtaining reservations of land as well as a provision that would give them a share of revenues from the exploitation of resources in their territories. Annuities, or cash payments, were to increase as revenues increased. However, the provision for an increase in the extremely small annuities was adjusted only once in the 1870s. When the Ojibwa request a further increase to reflect the real profits, the federal government's response is to rely on the English text of the treaty, which states that such further sums are limited to what "Her Majesty may be graciously pleased to order".[37]

While the wording in both treaties provided that Ojibwa hunting and fishing would be undisturbed, the written treaty describes the agreement as a total surrender of territory, terminology that had not been agreed to in negotiations. It appears that the Ojibwa understood that the treaties involved only a limited

use of their land for purposes of exploiting subsurface rights where minerals were discovered.[38] There was, however, a common understanding between Robinson and the Indian nations that the Ojibwa would be able to carry out harvesting, both traditional and commercial, throughout their traditional territories as they were accustomed to doing.[39]

4. The Numbered Treaties

As we have seen, Crown policy was to proceed with treaties as land was required for settlement and development. In making what came to be called the numbered treaties of the west, treaty commissioners were instructed to "establish friendly relations" with the Indians and to report on a course of action for the removal of any obstructions that stood in the way of the anticipated flow of population into the fertile lands that lay between Manitoba and the Rocky Mountains.[40]

In negotiating the numbered treaties that followed, the Crown followed the pattern of approaching First Nations to 'surrender' large tracts of land in return for annual cash payments and other 'benefits'. These negotiations were conducted in the oral traditions of the Indian nations. Once agreement was reached, a text was produced that purported to represent the substance of the agreements. However, arrangements respecting land are one area where there was fundamental misunderstanding about what the parties thought or assumed they were doing when they made the treaties. The situation varied from one treaty to another, but in general the Indian nations, based on their cultural and oral traditions, understood they were sharing the land, not 'surrendering' it. While the surrender clauses of the early land sales in Ontario were included in the later written numbered treaties, it is questionable whether their implications were known to the Indian parties, since these legal and real estate concepts would have been incomprehensible to many Aboriginal people. Further, it would have been difficult, if not impossible, to translate the legal language expressing these concepts into the Indian languages. Aboriginal people often understood that they were being compensated for the use of their lands and that they were not being asked to give up or surrender them, but to allow settlers to move onto their lands peaceably.

In these negotiations the Indian parties were concerned primarily with retaining and protecting their lands, their ways of life, and the continuation of their traditional economies based on hunting, fishing, trapping and gathering. In these areas they were firm and immovable in treaty negotiations. Though they were agreeable to sharing, they were not agreeable to major changes in their ways of life. Further, they were not asked to agree to this; it was common for Crown representatives to assure treaty nations that their traditional way of life would

not be affected by the signing of the treaty. Indeed, an examination of the reports of the treaty commissioners reveals that these matters, not the sale of land, occupied most of the discussion during treaty negotiations.

Although the extent to which these basic differences and assumptions were communicated effectively and understood depended on the historical circumstances of those events in particular locales, on the whole the First Nations did not agree to having their lands taken over by the Crown, nor did they agree to come under the control of the Crown. Their understanding was that they would share their lands and resources in a treaty relationship that would respect their agreement to co-exist as separate nations but linked in a partnership with the Crown.[41]

Other aspects of the treaty negotiations were also significant. The numbered treaties provided for tracts of land to be set apart and protected as reserves for the Indian parties. In the Robinson treaties, for example, the reserve lands were retained or reserved from the general surrender of Indian title. In the later numbered treaties, the texts were drafted to indicate that all Indian title was surrendered to the Crown, and from those tracts the Crown was obliged to set apart 'Crown land' for reserves on a population-based formula.

As the Indian parties in possession of these huge tracts of land demanded a fair and equitable exchange, the Crown not only offered cash payments upon signing and annually thereafter, but agreed to provide agricultural and economic assistance, schools and teachers, and other goods and benefits depending on the particular group they were negotiating with. Ammunition and gunpowder (for hunting), twine (for fishing nets), agricultural implements (ploughs) and livestock (horses and cattle) were offered, should the Indian nations wish to take up agriculture as a way of life, although they were not compelled to do so. Treaty 6 included the promise of assistance in the event of famine and health care, in the form of a "medicine chest".[42] The authority of the chiefs and headmen was recognized by gifts of medals and suits of clothes.

While there were common elements to the treaties, there were also distinctive circumstances that led to some variation from one treaty to another. To give the flavour of the different treaties, we provide a brief description of them, grouped into five categories (see Table 6.1 and Figure 6.1). An early western treaty was the Selkirk Treaty of 1817.

4.1 The Selkirk Treaty (1817)

The Selkirk Treaty of 18 July 1817 was made between Lord Selkirk and three Ojibwa chiefs and the eastern-most branch of the Cree. The treaty secured a tract of land of two miles on either side of the Red River as a settlement site for 1,000 Scottish families in consideration of 100 pounds of tobacco and other goods in rent annually.[43] However, when the proposed transfer of Rupert's Land to

TABLE 6.1
Registered Indian Population by Treaty and On- and Off-Reserve, 1991

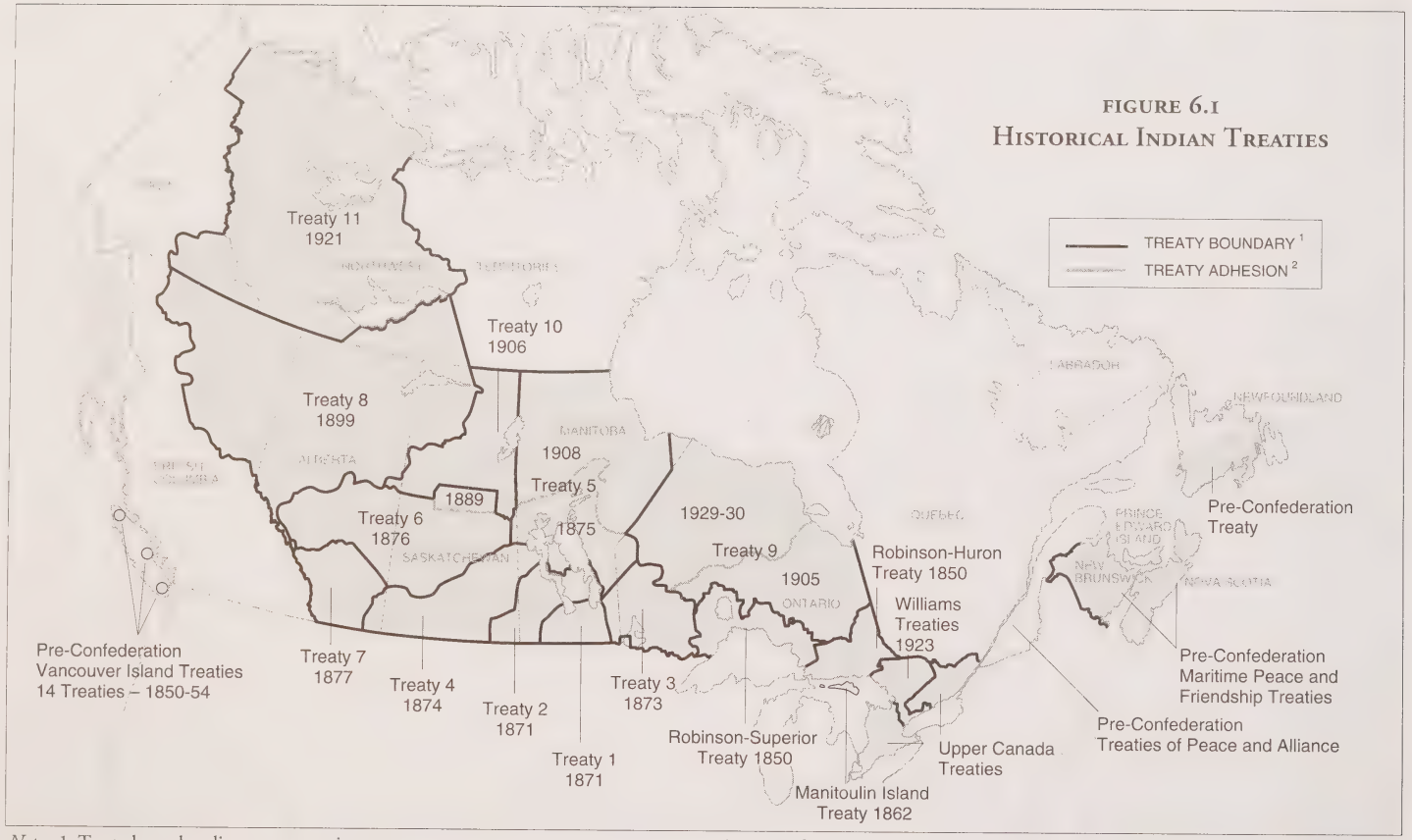
Treaty	Total	On-reserve	Off-reserve
Pre-Confederation	18,223	12,570	5,653
Lower Cayuga	2,226	1,336	890
Upper Cayuga	2,181	892	1,289
Robinson-Huron	20,066	8,816	11,250
Robinson-Superior	6,432	2,809	3,623
Williams	5,145	2,337	2,808
Treaty 1	16,574	9,028	7,546
Treaty 2	8,809	4,972	3,837
Treaty 3	10,790	5,191	5,599
Treaty 4	32,071	12,839	19,232
Treaty 5	46,409	35,780	10,629
Treaty 6	66,867	44,396	22,471
Treaty 7	17,945	13,713	4,232
Treaty 8	28,292	15,346	12,946
Treaty 9	21,356	13,952	7,404
Treaty 10	5,099	3,348	1,751
Treaty 11	8,898	7,338	1,560
Total	**317,383**	**194,663**	**122,720**

Source: Department of Indian Affairs and Northern Development, "Registered Indian Population by Band, Treaty, and Region, Canada, 1991", unpublished table (1991); and "Indian Register Population by Sex and Residence" (1991).

Canada became widely known in the late 1860s, a question arose of what was agreed to in the Selkirk Treaty and who owned the land. This led to a continuing discussion about the need for new arrangements respecting the lands in question, and ultimately, to the negotiation of Treaties 1 and 2.[44]

4.2 Treaties 1 and 2 (1871)

Traditional historical interpretations have tended to portray the treaty-making process as a Crown initiative, with a benevolent Crown extending its largesse to



Notes: 1. Treaty boundary lines are approximate.
2. Extension of a treaty boundary as a result of later signatories who adhered to the terms of the original treaty.

Source: Information taken from the National Atlas Information Services map sheet number MCR4162 © 1991. Her Majesty the Queen in Right of Canada with permission of Natural Resources Canada.

the less fortunate nations. However, the numbered treaties came about because First Nations demanded that special arrangements be made through treaties before the Crown could expect to use Indian lands and resources. They were not prepared to give up their lands, on which they depended for their livelihood, without a formal arrangement that would protect adequate lands and resources for their own use.

> [There are] those who propagate the myth...that Canada began to negotiate treaties with the Indians of the West in 1871 as part of an overall plan to develop the agricultural potential of the West, open the land for railway construction, and bind the prairies to Canada in a network of commercial and economic ties. Although there is an element of truth to these statements, the fact remains that in 1871, Canada had no plan on how to deal with the Indians and the negotiation of treaties was not at the initiative of the Canadian government, but at the insistence of the Ojibwa Indians of the North-West Angle and the Saulteaux of the tiny province of Manitoba. What is ignored by the traditional interpretation is that the treaty process only started after Yellow Quill's band of Saulteaux turned back settlers who tried to go west of Portage la Prairie, and after other Saulteaux leaders insisted upon enforcement of the Selkirk Treaty or, more often, insisted upon making a new treaty. Also ignored is the fact that the Ojibwa of the North-West Angle demanded rents, and created the fear of violence against prospective settlers who crossed their land or made use of their territory, if Ojibwa rights to their lands were not recognized. This pressure and fear of resulting violence is what motivated the government to begin the treaty-making process.[45]

By 1870 the Ojibwa at Portage notified the Crown that they wished to make a treaty and discuss compensation and that they had "in some instances obstructed settlers and surveyors".[46] They also warned settlers not to cut wood or take possession of the lands on which they were squatting and indicated that "they were unwilling to allow the settlers the free use of the country for themselves or their cattle."[47] However, they did allow the settlers to remain until a treaty was concluded. Pressure from the Indian nations to protect what was theirs and the Crown's desire to secure Indian lands compelled them to meet and negotiate mutually acceptable terms to accommodate one another.

Following an unsuccessful attempt to negotiate a treaty in the Fort Frances region in early 1871, treaty discussions were begun with the peoples of the Treaty 1 and 2 areas in the summer of the same year. In his address to the Ojibwa, the lieutenant governor of Manitoba and the Northwest Territories, Adams G. Archibald, invoked the name of the Queen, who wished them to

> till land and raise food, and store it up against a time of want. ...[but she had] no idea of compelling you to do so. This she leaves to your choice, and you need not live like the white man unless you can be persuaded to do so of your own free will....
>
> Your Great Mother, therefore, will lay aside for you 'lots' of land to be used by you and your children forever. She will not allow the white man to intrude upon these lots. She will make rules to keep them for you...as long as the sun shall shine...[48]

Archibald emphasized that they would not be compelled to settle on reserves and that they would be able to continue their traditional way of life and hunt as they always had. Negotiations respecting land, the size of reserves, and the size of annuities (compensation) were long and difficult. Commissioners had trouble "in getting them to understand the views of the Government – they wishing to have two thirds of the province as a reserve." Eventually a treaty was concluded, but only after the Portage Indians decided to withdraw from negotiations.[49] The question of how much land would be retained by First Nations was finally resolved by compromise when Lieutenant Governor Archibald agreed to survey additional land around their farming communities, provide additional lands further west as their land base became too small for their population, and provide additional lands to the plains Ojibwa.[50]

However, the written text did not include the guarantees that had been made respecting land, hunting and fishing, and the maintenance of their way of life, nor did it contain what were termed "outside" promises respecting agricultural implements, livestock, hunting equipment, and the other promises that had been extracted. In fact, the text was not that different from the Robinson Huron and Superior treaties, for it "surrendered" land in exchange for annuities, schools and reserves based on a formula of 160 acres per person.

In a subsequent inquiry into the matter, it was discovered that Commissioner Wemyss M. Simpson had neglected to include a record of the outside promises when he forwarded the text of the treaty to Ottawa. Although a subsequent memo from Commissioner Simpson rectified the error, the outside promises were ignored for some time by the federal government. Commissioner Alexander Morris acknowledged this in his report to Ottawa:

> When Treaties One and Two were made, certain verbal promises were unfortunately made to the Indians, which were not included in the written text of the treaties, nor recognized or referred, to when these Treaties were ratified by the Privy Council. This, naturally, led to misunderstanding with the Indians, and to widespread dissatisfaction among them.[51]

The matter of the outside promises was not settled until 1876.

4.3 The Northwest Angle Treaty – Treaty 3

The Ojibwa occupied the territory from Rainy River to Lake of the Woods and had an abundant and stable economy based on the commercial production of furs and trade. When traffic passed through their territory, they extracted compensation for use of the right of way through their lands. Reports to Ottawa suggested that the Ojibwa would oppose any attempt to "[open] a highway without any regard to them, through a territory of which they believe themselves to be the sole lords and masters...".[52] Commissioner S.J. Dawson, who had negotiated with the Ojibwa for the right of way for the Dawson route, warned Ottawa that they were encountering people who differed greatly from the "tame" Indians with whom Canada had dealt previously. Although their language was often allegorical, "in their actual dealings they are shrewd and sufficiently awake to their own interests".[53] He advised they were also familiar with treaties made in the United States and that the "experience they have thus gained has rendered them expert diplomatists as compared to Indians who have never had such advantage and they have not failed to impress on their kindred and tribe on Rainy River the value of the lands which they hold on the line of route to Red River." That the Ojibwa were aware of the results of non-Aboriginal settlement was evident in their views of what it entailed:

> We see how the Indians are treated far away. The white man comes, looks at their flowers, their trees, and their rivers; others soon follow; the lands of the Indians pass from their hands, and they have nowhere a home.[54]

Because of their clear sense of ownership, the Ojibwa would not allow use of their lands, timber or waterways without compensation. They were steadfast in the defence of their country and opposed non-Aboriginal expansion without the prerequisite treaty arrangements:

> We are not afraid of the white man; the people whom you go to see at Red River are our Cousins as well as yours, so that friendship between us is proper and natural. We have seen evidence of the power of your Country in the numerous warriors which she has sent forth. The soldiers have been most orderly and quick and they have held out the hand of friendship to the Indians. We believe what you tell us when you say that in your land the Indians have always been treated with clemency and justice and we are not apprehensive for the future, but do not bring Settlers and Surveyors amongst us to measure and occupy our lands until a clear understanding has been arrived at as to what our relations are to be in the time to come.[55]

The Ojibwa clearly expected to meet the challenges brought by the advent of settlement. They approached treaty making with knowledge that their lands

were valuable and that they would direct and control change, as indicated by Chief Mo-We-Do-Pe-Nais:

> All this is our property where you have come. ...This is what we think, that the Great Spirit has planted us on this ground where we are, as you were where you came from. We think where we are is our property. I will tell you what he said to us when he planted us here; the rules that we should follow...
>
> ...Our hands are poor but our heads are rich, and it is riches that we ask so that we may be able to support our families as long as the sun rises and the water runs.
>
> ...The sound of the rustling of the gold is under my feet where I stand; we have a rich country; it is the Great Spirit who gave us this; where we stand upon is the Indians' property, and belongs to them. ...The white man has robbed us of our riches, and we don't wish to give them up again without getting something in their place.[56]

The negotiation of Treaty 3 was also long and difficult, but after two failed attempts a treaty was concluded in 1873. Throughout the negotiations the Ojibwa held fast to their terms, and Crown negotiators were forced to make concessions. The Ojibwa were concerned primarily with preserving their economic base and securing compensation or rents for the use of their lands. They also took great pains to ensure that the Crown would fulfil the terms. Chief Mo-We-Do-Pe-Nais wanted to know how the treaty would be implemented and safeguarded, insisting that the promises made should be fulfilled by the agents of the Crown. In reply Commissioner Morris gave assurances that the "ear of the Queen's Government" would always be open, and that the Queen would "deal with her servants that do not do their duty in a proper manner".[57]

Freedom of movement for the Ojibwa throughout their territories was taken for granted, and they took the further step of negotiating free passes on the train that would cross their lands. The liquor trade in their country was to be halted, and they would not be conscripted to fight against their brothers in the United States should there be war between the Americans and the British. It was important to clarify this point, since the treaties of alliance between the eastern First Nations and the British and French had specified mutual obligations in the event of war.

With respect to the lands the Ojibwa would reserve for themselves, their spokesman said, "We do not want anyone to mark out our reserves, we have already marked them out...". In the end, the Ojibwa succeeded in getting far more than the Crown had been willing to consider, including an increase in the size of reserves from a quarter-section to a full section. Provision was also made for domestic animals, farming equipment, annuities (compensation), clothing and education. Subsequent treaties generally included these provisions as a

standard part of the agreement. In addition, those who were not present at treaty negotiations were asked to sign adhesions to the treaty for their traditional territories.[58]

4.4 Treaties 4, 5, 6 and 7[59]

Treaties with the First Nations of the plains, who were in possession of the western plains and who had to be dealt with if the new dominion was to extend its jurisdiction from east to west, were negotiated between 1874 and 1877. Observing the influx of more people into their country and the changes it brought gave the Indian nations reason for alarm:

> What wonder that the Indian mind was disturbed, and what wonder was it that a Plain Chief, as he looked upon the strange wires stretching through his land, exclaimed to his people, "We have done wrong to allow that wire to be placed there, before the Government obtained our leave to do so."[60]

The rich agricultural plains were coveted by the Crown and had the greatest potential, aside from forest and mineral developments, to generate the economic prosperity that settlement would bring. This would not be easy, since the plains nations had military confederacies to guard their lands against encroachment.[61]

The plains nations have often been portrayed in history as submissive in the 1870s because of the disappearance of the buffalo and the subsequent loss of their traditional livelihood. It is true that buffalo were becoming scarce and the plans nations were concerned about their livelihood, but they did not experience severe starvation until the 1880s when the buffalo virtually disappeared.[62] Records of negotiations and of the circumstances surrounding treaty making show that the plains nations were anything but weak and in fact posed a considerable threat to the new dominion if not treated with the utmost care. This apprehension was reinforced by the appearance of Sitting Bull on the Canadian side of the border after his successful defeat of General Custer at Little Big Horn. During this period, Canada was also cognizant of the threat of annexation of the western territories by the United States, particularly during the Alaska boundary negotiations, which revealed that the United States contemplated expanding north to the 50th/51st boundary.

At Treaty 4 negotiations, Commissioner Morris requested that the Queen's subjects be allowed to come and settle among them and farm the land. If the Indian nations agreed, their Great Mother the Queen would see that their needs were met, and the Queen's power and authority would protect them from encroachment by settlement. Treaty commissioners took great care to emphasize the physical aspects of the "caring relationship" and emphasized that the

Indian nations would benefit from treaties with the Queen. They were assured that no harm would come to them as a result of the treaty and that their way of life would be safeguarded.

Since many of their people were not present, those that were expressed their inability to negotiate, saying they had no authority to speak for those not present.[63] Further, political differences between the Cree and the Saulteaux erupted and delayed negotiations, resulting in a highly charged atmosphere. The compensation given to the Hudson's Bay Company in exchange for their rights in Rupert's Land became an issue that required enormous diplomatic skill on Morris's part before negotiations, when the Indians demanded that they be given the payment, since they were the owners of the land.

In the end, and in part because of all the difficulties in negotiating the treaty, Morris offered and the chiefs present agreed to accept the terms of Treaty 3, the terms of which had already been communicated to them by the Ojibwa with whom they were in close communication.[64]

Treaty 5 was negotiated in September 1875 between the Swampy Cree and others and the Crown as represented by Commissioner Morris. A treaty in the vicinity of Lake Winnipeg was deemed necessary because of the requirements of navigation and the need to make arrangements for settlement and other developments so that "settlers and traders might have undisturbed access to its waters, shores, islands, inlets and tributary streams".[65] According to Morris's report, the terms of Treaty 5 were similar to Treaties 3 and 4, except that reserved land would be provided on the basis of 160 acres for each family. The record of negotiations kept by commissioners had little detail about the extent of negotiations and essentially revolved around what was being 'offered' by commissioners and the location of the lands the Swampy Cree would retain. As the Crown was intent on gaining access to and controlling the waterways, the location of reserves generated some discussion. The Cree were assured, however, that they would be able to retain lands in their traditional territories.

Before the negotiation of Treaty 6, reports had been received that unrest and discontent prevailed among the Assiniboine and Cree, owing to construction of the telegraph line, the survey of the Pacific Railway line, and geographical survey crews. A report from W.S. Christie, chief factor of the Hudson's Bay Company in Edmonton, about the cause of the unrest contained a message from Chief Sweetgrass, a prominent chief of the Cree country:

> Great Father, – I shake hands with you, and bid you welcome. We heard our lands were sold and we did not like it; we don't want to sell our lands; it is our property, and no one has a right to sell them.... Our country is getting ruined of fur-bearing animals...our sole support... our country is no longer able to support us.... Make provision for us against years of starvation.... small-pox took away

> many of our people... we want you to stop the Americans from coming to trade on our lands.[66]

By this time, it was becoming evident that the buffalo, their livelihood, was suffering from over-hunting. The potential negative impact on Indian economies was becoming too obvious to ignore:

> I was also informed by these Indians that the Crees and Plain Assiniboines were united on two points: 1st. That they would not receive any presents from Government until a definite time for treaty was stated. 2nd. Though they deplored the necessity of resorting to extreme measures, yet they were unanimous in their determination to oppose the running of lines, or the making of roads through their country, until a settlement between the Government and them had been effected.[67]

Treaty 6 negotiations were conducted with elaborate protocols and ceremonies by both sides before and after negotiations in August 1876. Indian and Crown protocols were observed, and bargains made were sealed with pipe ceremonies. The Sacred Pipe ceremonies and declarations respecting the "honour of the Crown" set the moral and spiritual context within which negotiations proceeded. Eloquent and symbolic speeches were made to show good faith and honourable intentions.

The major concern on the plains nations side was the loss of their food supply, the buffalo, and the fear of famine and disease. They were aware of the terms of earlier treaties with "The Great Mother, The Queen" and treaties in the United States. The ensuing negotiations, which expanded the terms of former treaties, prompted this later report by David Mills, the minister of the interior:

> In view of the temper of the Indians of Saskatchewan, during the past year, and of the extravagant demands which they were induced to prefer on certain points, it needed all the temper, tact, judgment and discretion, of which the Commissioners were possessed, to bring negotiations to a satisfactory conclusion.[68]

To reassure the Indian nations, Morris promised: "Understand me, I do not want to interfere with your hunting and fishing. I want you to pursue it through the country as you have heretofore done".[69] He assured them that they would have more land than they needed. By the end of negotiations, the terms were similar to those of the other treaties, involving annuities, education, economic assistance and assistance with housing, but with added provisions for relief in the event of famine, help for the indigent, grain provisions for three years, and medical aid.[70]

In September 1877, Treaty 7 was made at Blackfoot Crossing between the Crown as represented by Commissioner David Laird and the Blood, Blackfoot,

Peigan, Sarcee and Stoney nations of the Blackfoot Confederacy.[71] Colonel McLeod of the Northwest Mounted Police, who was well respected by the confederacy, was also in attendance.

The Blackfoot Confederacy was feared because of its effectiveness in the defence of Blackfoot territory from outside encroachment. The Blackfoot were experiencing hardship as a result of the disappearance of the buffalo from their hunting grounds. Furthermore, up to 800 of their people had died from a smallpox epidemic in 1870.[72] From the Crown's perspective, it was essential to make a treaty with the Blackfoot to protect the existing settlements around the forts, provide for peaceful settlement, and preserve the friendly disposition of the tribes, which might easily give place to unfriendly or hostile feelings should the treaty negotiations be delayed further. Commissioner Laird offered inducements to get them to sign a treaty:

> The Great Mother heard that the buffalo were being killed very fast, and to prevent them from being destroyed her Councillors have made a law to protect them. ...This will save the buffalo, and provide you with food for many years yet, and it shews you that the Queen and her Councillors wish you well.
>
> ...Last year a treaty was made with the Crees along the Saskatchewan, and now the Queen has sent Col. McLeod and myself to ask you to make a treaty. But in a very few years the buffalo will probably be all destroyed, and for this reason the Queen wishes to help you to live in the future in some other way. She wishes you to allow her white children to come and live on your land and raise cattle, and should you agree to this she will assist you to raise cattle and grain... She will also pay you and your children money every year, which you can spend as you please. ...
>
> The Queen wishes us to offer you the same as was accepted by the Crees. I do not mean exactly the same terms, but equivalent terms, that will cost the Queen the same amount of money. ...The Commissioners will give you your choice, whether cattle or farming implements. ...If you sign the treaty every man, woman and child will get twelve dollars each... A reserve of land will be set apart for yourselves and your cattle, upon which none others will be permitted to encroach; for every five persons one square mile will be allotted on this reserve...[73]

The good relations that existed between the North West Mounted Police and the Blackfoot were largely responsible for the congenial atmosphere that prevailed at Blackfoot Crossing. Negotiations consisted of the Crown offering annuities, goods and benefits, as they had in other treaties, in exchange for Blackfoot agreement to sign a treaty, which they did without extensive

negotiations. They were promised that their reserved lands could not be taken without their consent and that their liberty of hunting over the open prairie would not be interfered with so long as they did not molest the settlers. In the record of treaty discussions prepared by the Crown, there appeared to be little discussion of the impending construction of the railroad or the surrender of Blackfoot territory.[74]

4.5 Northern Treaties: 8, 9, 10 and 11

Treaties 8 and 11 were driven by economic pressures – gold was discovered in the Klondike in the spring of 1897, and prospectors, gold diggers and settlers flooded into Indian lands. The exploitation of rich gold, oil, gas and other resources by companies and individuals created a ferocious dynamic. The serious damage inflicted on the Indian economy and the destruction of forests by fires infuriated the Indians, who reacted strongly against the invasion of their lands. Indeed, in June 1898, nations in the Fort St. John area refused to allow police and miners to enter their territories until a treaty was made.

The Crown declared that "no time should be lost by the Government in making a treaty with these Indians for their rights over this territory."[75] As a result, in 1899 treaty commissioners travelled with a sense of urgency to meet the Cree and Dene nations in possession of a northern territory comprising 324,900 square miles, an area from northern Saskatchewan, Alberta and British Columbia and south of the Hay River and Great Slave Lake in the North West Territories. In Treaty 8, the Crown continued its policy of offering benefits if the Indian nations would allow settlers into their territories.

The pre-drafted 'southern' treaty was offered for discussion. It included the usual items, as well as such things as livestock and farming equipment – items completely unsuitable to the north. The treaty also included the usual 'cede, surrender and yield up' clause, although this was not discussed by commissioners. Father Lacombe reported that "the Northern native population is not any too well disposed to view favourably any proposition involving the cession of their rights to their country".[76] Another report by a missionary said that "As far as I can gather they are determined to refuse either Treaty or "Scrips" and to oppose the settlement of their country by Europeans".[77]

Negotiations went on for many days at various locations and were hampered by commissioners' lack of understanding of the conditions put forward by the Cree and Dene nations. The latter refused to sign a treaty unless commissioners met their demand that "nothing would be allowed to interfere with their way of making a living; the old and destitute would always be taken care of; they were guaranteed protection in their way of living as hunting and trappers from white competition; they would not be prevented from hunting and fishing as they had always done, so as to enable them to earn their living and

maintain their existence".[78] It was only after the commissioners solemnly pledged their word, in the name of Queen Victoria, that the Indians agreed to sign the treaty.[79] However, the full content of the discussion was not reflected in the written treaty.

Treaty 11 was to follow the same path, since the Privy Council had noted in 1891 that immense quantities of petroleum and other valuable minerals existed in the Mackenzie River country and that "a treaty or treaties should be made with the Indians who claim these regions as their hunting grounds".[80] The economic implications were staggering to politicians in Ottawa. After oil was discovered at Norman Wells, treaty commissioners were again dispatched with urgency when the Dene threatened to refuse entry to their lands.

Commissioners were received with suspicion and mistrust, since the Dene had learned that guarantees negotiated in Treaty 8 were not being respected. Throughout the negotiations, the Dene repeated their conditions for making a treaty: no reserves to restrict their movements; protection of their lands; education; medical care; protection of wildlife and of their hunting, fishing and trapping economies. In response, promises were made by Commissioner Conroy that "they would be guaranteed full freedom to hunt, trap, and fish in the Northwest Territories if they would sign the Treaty", since it was clear that they would not make any treaty without that guarantee.[81] Oral promises – made by Bishop Breynat as well as Commissioner Conroy, whose word alone was not enough – were made and remade at the various treaty-making sites:

> I gave my word of honour that the promises made by the Royal Commissioner, "although they were not actually included in the Treaty" would be kept by the Crown. ...
>
> They were promised that nothing would be done or allowed to interfere with their way of living...
>
> The old and the destitute would always be taken care of...
>
> They were guaranteed that they would be protected, especially in their way of living as hunters and trappers, from white competition, they would not be prevented from hunting and fishing, as they had always done, so as to enable them to earn their own living and maintain their existence.[82]

Commissioner Conroy did not table the commitments and guarantees made to the Dene in the oral negotiations. All that was tabled was a written text almost identical to the pre-drafted treaty that had been proposed in the Treaty 8 negotiations.

Throughout the negotiation of the numbered treaties the commissioners did not clearly convey to First Nations the implications of the surrender and cession language in treaty documents. The discussion about land proceeded on the assumption, on the First Nations side, that they would retain what they considered to be

sufficient land within their respective territories, while allowing the incoming population to share their lands. Many nations believed they were making treaties of peace and friendship, not treaties of land surrender. It is also probable that treaty commissioners, in their haste to conclude the treaties, did not explain the concept of land surrender. An anthropologist testifying before Justice Morrow in the *Paulette* case put the issue this way:

> ...How could anybody [explain] in the Athapaskan language through a Métis interpreter to monolingual Athapaskan hearers the concept of relinquishing ownership of land...[to] people who have never conceived of a bounded property which can be transferred from one group to another...[83]

5. Differing Assumptions and Understandings

When Europeans landed on the shores of the Americas, they first sought shelter and sustenance, then pursued a lucrative trade with Aboriginal nations, and later made arrangements through treaties to live permanently in Aboriginal territories. These treaties varied in purpose and scope, depending on the circumstances and objectives of the parties making them. Early treaties were made for peace, trade, alliance, neutrality and military support. When settlement grew, treaties were made to establish relationships, as a way of living together in peaceful co-existence, and to acquire Aboriginal lands and resources. Canada continues to enter into treaty agreements with Aboriginal nations to acquire title to Aboriginal lands and resources.

Over time, treaties became more complex and difficult to negotiate. In the early period of contact, when Europeans were a minority and understanding one another was essential to survival, treaty relationships were cultivated and maintained carefully. As time went on and Europeans became a majority, negotiations became complex, difficult and vague in some areas, as the Crown pursued its goal of securing Aboriginal lands to build its new country. The different cultural views, values and assumptions of both parties conflicted in substantial ways. These contradictions were often not evident, or remained unspoken, in the negotiation and conclusion of solemn treaty agreements. In many cases, it is questionable whether the Indian parties understood the legal and political implications of the land conveyance documents they were asked to sign. Many of these transactions are the subject of land claims today.

It is also doubtful in many cases that the First Nations participating in the numbered treaties knew that the written texts they signed differed from the oral agreements they concluded. In fact, it was not evident to them until some years after treaties were made that the Crown was not honouring its treaty commitments

or was acting in a way that violated treaty agreements. Their reaction to the imposition of government laws and restrictions upon them was seen as a violation of the Queen's promise to protect their way of life and not subject them to the Queen's laws (the *Indian Act*) or the Queen's servants (the Indian agent). The possibility that the party recording the oral agreements and preparing the written text took advantage of the other party's lack of understanding of the legal implications of written texts, or that those implications were not communicated to the party that did not read or write, is disturbing. If First Nations depended on the oral version of their treaties, it follows that the oral agreements reached must be compared to the written version to verify the nature and scope of these agreements today. The fact that in most cases the Indian parties were unable to verify the implications of the written text against the oral agreement, because of language and cultural barriers, must be given consideration when interpreting their meaning.

As we have seen from these brief descriptions of the individual treaties, from the perspective of the First Nations there were several basic elements or principles involved in the treaty-making process. In making treaties both parties recognized and affirmed one another's authority to enter into and make binding commitments in treaties. In addition, First Nations would not consider making a treaty unless their way of life was protected and preserved. This meant the continuing use of their lands and natural resources. In most, if not all the treaties, the Crown promised not to interfere with their way of life, including their hunting, fishing, trapping and gathering practices.

The Crown asked First Nations to share their lands with settlers, and First Nations did so on the condition that they would retain adequate land and resources to ensure the well-being of their nations. The Indian parties understood they would continue to maintain their traditional governments, their laws and their customs and to co-operate as necessary with the Crown. There was substantive agreement that the treaties established an economic partnership from which both parties would benefit. Compensation was offered in exchange for the agreement of First Nations to share. The principle of fair exchange and mutual benefit was an integral part of treaty making. First Nations were promised compensation in the form of annual payments or annuities, social and economic benefits, and the continued use of their lands and resources.

These principles, which were part and parcel of the treaty negotiations, were agreed upon throughout the oral negotiations for Treaties 1 through 11. They were not always discussed at length, and in many cases the written versions of the treaties are silent on them. In these circumstances, the parties based their negotiations and consent on their own understandings, assumptions and values, as well as on the oral discussions. First Nations were assured orally that their way of life would not change unless they wished it to. They understood that their governing structures and authorities would continue undisturbed by the treaty relationship. They also assumed, and were assured, that the Crown would

respect and honour the treaty agreements in perpetuity and that they would not suffer – but only benefit – from making treaties with the Crown. They were not asked, and they did not agree, to adopt non-Aboriginal ways and laws for themselves. They believed and were assured that their freedom and independence would not be interfered with as a result of the treaty. They expected to meet periodically with their treaty partner to make the necessary adjustments and accommodations to maintain the treaty relationship.

Treaty negotiations were usually conducted over a three- to four-day period, with tremendous barriers created by two different cultures with very different world views and experiences attempting to understand and come to terms with one another. Negotiation and dialogue did not, and could not, venture into the meaning of specific terminology, legal or otherwise, and remained at a broad general level, owing to time and language barriers. Issues such as coexistence, non-interference with the Indian way of life, non-interference with hunting and fishing and retention of adequate lands would therefore have been understood at the broadest level. These were matters that would, presumably, be sorted out as time went on.

Under these circumstances, conceptual and language barriers would have been difficult to overcome. In many cases this meant that the parties had to rely on the trustworthiness, good intentions, and good faith of the other treaty partner and the ability to understand one another better through time. At the time of treaty making, First Nations would not have been sufficiently cognizant of British laws and perspectives, since their previous interaction and exchanges had been primarily through trading relationships. When treaty commissioners proposed a formula (usually called a land quantum formula) to determine how much land would be reserved for Indian nations, for example, it is doubtful that they would have understood the amount of land entailed in one square mile.[84] Similarly, terms such as cede, surrender, extinguish, yield and forever give up all rights and titles appear in the written text of the treaties, but discussion of the meaning of these concepts is not found anywhere in the records of treaty negotiations.

Even as treaty commissioners were promising non-interference with the Indian way of life, treaty documents referred to the Indian nations as "subjects of the Crown". Since First Nations patterned their relationships along kinship lines, they would have understood the relationship they were entering as being more akin to 'brothers' or 'partners' of the Crown. The First Nations also assumed, since they were being asked for land, that they were the ones giving land to the Crown and that they were the owners of the land. Indeed, the notion that the Crown was in any position to 'give' their land to them – for the establishment of reserves, for example – would have been ludicrous, since in many cases it had been their land since time immemorial.

Written texts also placed limits on the agreements and promises being made, unbeknownst to the Indian parties. For example, written texts limiting hunting and fishing to Crown lands stand in contradiction to the oral promise not to interfere, in any way, with their use of wildlife and fisheries resources. These inherent conflicts and contradictions do not appear to have been explained to the Indian parties.

However, it is also clear that both parties wanted to make treaties to secure their respective political and economic objectives. Both sides saw tangible rewards flowing from the treaties and each side worked to secure the terms and conditions they wanted in the treaty. Both parties pledged to honour and uphold their sacred and binding pacts. Each side brought something of value to bargain with – the First Nations brought capital in the form of their land and resources, and the Crown brought the promise of compensation and the promise not to interfere with their way of life and the use of their natural resources as they had in the past. Each believed they had secured their respective objectives – the Crown gained access to Indian lands and resources, and First Nations secured the guarantee of the survival and protection of their nationhood.

6. Non-Fulfilment of Treaties

In the decades following the signing of the treaties, the Crown was able to realize the objectives it had set for itself in undertaking the treaty process. The treaty nations have not been so fortunate, in part for the reasons alluded to earlier but also because of Canadian governments' lack of commitment to the treaty relationship and to fulfilling their obligations. This has occurred for several reasons, and the reasons suggest some of the steps that should be taken to come to terms with these historical agreements and finally to implement them in their original spirit and intent.[85]

One of the fundamental flaws in the treaty-making process was that only the Crown's version of treaty negotiations and agreements was recorded in accounts of negotiations and in the written texts. Little or no attention was paid to how First Nations understood the treaties or consideration given to the fact that they might have had a completely different understanding of what had transpired.

Another fundamental problem was the Crown's failure to establish the necessary laws to uphold the treaties it signed. Unlike the modern treaties of today, which have provisions for implementation, implementation of the historical treaties was virtually overlooked. Once treaties were negotiated, the texts were tabled in Ottawa and the commissioners who had negotiated them moved on to other activities. After 1867, the new dominion was occupied with immigration, settlement and nation building, and its treaties with the Indian nations were largely buried and forgotten in succeeding decades. Since the Indian department

was located initially in the department of the interior, immigration and settlement took precedence in the corridors of power.

Nor did the government's corporate memory with respect to the historical treaties survive within the Indian affairs administration. Accordingly, after treaties were made, unless they were described and explained explicitly and disseminated widely in government departments, the promises and understandings reached with First Nations would have been lost as officials changed jobs or moved on. This helps to explain the gradual distancing of officials from the treaties that they, as government officials, were charged with implementing.

The financial situation of the new country also played a large part in the non-fulfilment of treaties and often meant that treaty obligations were seen as a burden on the treasury, with costs to be pared down to the bare minimum. Although the sale of Indian lands and resources often paid for the delivery of services and benefits to Indian people in certain parts of the country, the Crown did not involve First Nations in decisions about how proceeds from their lands would be used. The eclipse of treaties and the absenting of Indian people from decision making was pervasive, reinforced by *Indian Act* provisions that restricted Indian people to reserves and forbade them to pursue legitimate complaints about the non-fulfilment of treaties.

Additionally, no effective office in government was ever given responsibility for fulfilling Crown treaty commitments. Implementation was left to a small group of civil servants without the knowledge, power or authority to act for the Crown in meeting treaty obligations or to hold off other government departments and the private sector if they had conflicting agendas.[86] For example, treaties promised that reserve lands would never be taken away without the consent of the Indian signatories, but statute law provided that reserve lands could be expropriated from 1850 on.[87] Thus federal statutes overrode treaty promises that Indian nations would never lose their lands.

Many of the rights and promises recognized and affirmed by the treaties could be upheld only by an act of the legislature. But treaties were not sanctioned by legislation; they were executive actions of the Crown. This meant that they were not given the status they needed to be implemented properly; as a result, they would be eroded and undermined by Canadian laws. The treatment of fishing rights in treaties provides a good example. First Nations understood that treaty protection of their fishing rights was paramount. Yet, because of the public right of fishing in navigable waters, the Crown was not in a position to confirm such rights for its treaty partners without legislative enactments.[88]

In the absence of effective laws to implement treaties, the federal Indian administration fell back on the *Indian Act.* As time went on, basic treaty provisions such as annuities were provided for in the *Indian Act* to enable the federal government to deliver them.[89] Although it does not recognize, affirm or otherwise acknowledge treaties, the *Indian Act* continues to be the only federal statute

administering to Indians generally, including those with historical treaty agreements. This is despite the fact that, as of 1982, the constitution recognizes and affirms the Aboriginal and treaty rights of the Aboriginal peoples of Canada.

These are all indications that respect for the treaties and the obligation to fulfil them have not been priorities for governments in Canada or, indeed, for Canadians generally.

7. Restoring the Spirit of the Treaties

If seen with broad vision, the story of Crown treaty making with First Nations is one of the richest depositories of meaning and identity for Canadians. It is a story that begins long before the *Royal Proclamation of 1763* and connects the earliest forays of European fishermen to the shores of Newfoundland with the establishment of Nunavut at the end of the twentieth century. Aboriginal nations' contributions to Canada in sharing their wealth with the newcomers should be acknowledged and enshrined forever in Canadian history. Those contributions are unique and incomparable in their historical depth and in their practical significance to Canada today.

Treaties recognized the separate existence of nations but also connected peoples by establishing links of partnership, common interests and shared ceremonies. The practice of dividing and connecting was extended to Europeans at an early stage, as reflected in the Two Row Wampum, a symbolic reminder of the separate but connected paths followed by the British and the Six Nations in the conduct of their relations.

The Aboriginal world view of a universal sacred order, made up of compacts and kinship relations among human beings, other living beings and the Creator, was initially reinforced by the Crown's willingness to enter into treaties under Indian protocols. But subsequent denials of the validity and importance of the treaties have denigrated Aboriginal peoples' stature as nations and their substantial contribution to Canada. Unfortunately, non-Aboriginal people valued treaties as long as they continued to be useful, which often meant until land changed hands, settlements grew, and resources were extracted and converted into money. For their part, First Nations expected that treaties would grow more valuable with time, as the parties came to know each other better, trusted one another, and made the most of their treaty relationships.

In the past, governments and courts in Canada have often considered these treaties instruments of surrender rather than compacts of co-existence and mutual benefit. This is the spirit of colonialism, the agenda of a society that believes it has no more need for friends because of its apparent wealth, power and superiority. The spirit of the treaties, by contrast, is the spirit of a time when the ancestors of today's Canadians needed friends and found them.

It is time to return to the spirit of the treaties and to set a new course to correct the legalistic and adversarial attitudes and actions that have contributed to the badly deteriorated treaty relationships that exist between Aboriginal nations and Canada today.

8. Extending Measures of Control and Assimilation

The nation of Canada was born on 1 July 1867. Within a federal political structure, a modern transcontinental society was to be fashioned and, as empire became nation, a new beginning was to be made.

Work on the Confederation project had begun as early as 1858, and as the tempo quickened between 1864 and 1866 the 'Fathers' met in Charlottetown, Quebec and London. At those meetings, in the editorial pages of the colonial press and even on the hustings, the details of the federation and a pan-colonial consensus were hammered out. At no time, however, were First Nations included in the discussion, nor were they consulted about their concerns. Neither was their future position in the federation given any public acknowledgement or discussion. Nevertheless, the broad outlines of a new constitutional relationship, at least with the First Nations, were determined unilaterally. The first prime minister, Sir John A. Macdonald, soon informed Parliament that it would be Canada's goal "to do away with the tribal system and assimilate the Indian people in all respects with the inhabitants of the Dominion."[90]

Such a goal placed Canada in the vanguard of the empire-wide task of carrying the 'white man's burden', which was at one and the same time the duty of 'civilizing' Indigenous peoples, be they Maori, Aborigine or Zulu. This also became the justification for the extensive annexation of the homelands and resources of Indigenous peoples in Africa, Asia, Australia and North America. For Victorians this was a divinely ordained responsibility; for Canadians it was, at the level of rhetoric at least, a national duty. Looking forward from the western treaties, one of the principal government negotiators, Alexander Morris, prayed:

> Let us have Christianity and civilization among the Indian tribes...let us have a wise and paternal government...doing its utmost to help and elevate the Indian population, who have been cast upon our care...and Canada will be enabled to feel, that in a truly patriotic spirit, our country has done its duty to the red men...[91]

Parliament was moved to action. Though rarely consulting Aboriginal communities, it translated that duty into federal legislation such as the *Indian Act* and periodic amendments to it. It crafted educational systems, social policies and economic development plans designed to extinguish Aboriginal rights and assimilate Aboriginal people.

The process began with the blueprint of Confederation, the *British North America Act* of 1867. It provided in section 91 that the "exclusive Legislative Authority of the Parliament of Canada extends to all matters within the class of subjects next herein-after enumerated" among which was section 24, "Indians, and Lands reserved for the Indians." Subsequently, the ethos of that legislative responsibility was revealed in the *Enfranchisement Act* of 1869. Rooted firmly in the imperial past, the act was conditioned by the Indian department's resolute insistence on enfranchisement. It brought forward the enfranchisement provisions of the act of 1857 and added, in the service of what was then adopted as the fundamental principle of federal policy, the goal of assimilation.

In the act, traditional governments were replaced by 'municipal government', giving minor and circumscribed powers to the band while extensive control of reserves was assigned to the federal government and its representative, the Indian affairs department.

In subsequent legislation – the *Indian Act*s of 1876 and 1880 and the *Indian Advancement Act* of 1884 – the federal government took for itself the power to mould, unilaterally, every aspect of life on reserves and to create whatever infrastructure it deemed necessary to achieve the desired end – assimilation through enfranchisement and, as a consequence, the eventual disappearance of Indians as distinct peoples. It could, for example, and did in the ensuing years, control elections and the conduct of band councils, the management of reserve resources and the expenditure of revenues, impose individual land holding through a 'ticket of location' system, and determine the education of Indian children.

This legislation early in the life of Confederation had an even more wide-ranging impact. At Confederation two paths were laid out: one for non-Aboriginal Canadians of full participation in the affairs of their communities, province and nation; and one for the people of the First Nations, separated from provincial and national life, and henceforth to exist in communities where their traditional governments were ignored, undermined and suppressed, and whose colonization was as profound as it would prove to be immutable over the ensuing decades.

For Aboriginal people, however, there was even further division – yet more separate paths. Federal legislative responsibility was restricted to Indians. The Métis people were disavowed, and Inuit were not recognized as a federal constitutional responsibility until 1939 and then were exempted explicitly from the *Indian Act* in 1951.[92] United perhaps in marginalization, Aboriginal communities nevertheless found themselves in separate administrative categories, forced to struggle alone and at times even against each other, to achieve any degree of decolonization.

Furthermore, the *Indian Act* empowered the department to decide who was an Indian on the basis of definitions determined not in consultation with communities but unilaterally by Parliament, which created more division by distinguishing between 'status' and 'non-status' Indians.

Excerpt from the *Enfranchisement Act of 1869*

CAP VI.

An Act for the gradual enfranchisement of Indians, the better management of Indian affairs, and to extend the provisions of Act 31st Victoria, Chapter 42

[assented to 22 June, 1869.]

12. The Chief or Chiefs of any Tribe in Council may frame, subject to confirmation by the Governor in Council, rules and regulations for the following subjects, viz:

1. The care of the public health.
2. The observance of order and decorum at assemblies of the people in General Council, or on other occasions.
3. The repression of intemperance and profligacy.
4. The prevention of trespass by cattle.
5. The maintenance of roads, bridges, ditches and fences.
6. The construction of and maintaining in repair of school houses, council houses and other Indian public buildings.
7. The establishment of pounds and the appointment of pound-keepers.

Source: Statutes of Canada 1869, chapter 6 (32-33 Victoria)

Not surprisingly, for it was nineteenth-century legislation, the *Indian Act* introduced unequal treatment for men and women. While 'status' Indian men could not lose their status except by enfranchisement, the act of 1869 added the proviso that "any Indian woman marrying any other than an Indian shall cease to be an Indian...nor shall the children issue of such a marriage be considered as Indians". Over the course of Canada's first century, therefore, an ever growing number of Indian women and their children were lost to their communities and saw their existence as Aboriginal persons simply denied by the federal government.

For the authors of this colonial system, the separate paths were to run to a single destination. Their national vision was the same for all Aboriginal people, whether men, women or children, 'status' or 'non-status', Indian, and Métis or Inuit. As their homelands were engulfed by the ever expanding Canadian nation, all Aboriginal persons would be expected to abandon their cherished lifeways to become 'civilized' and thus to lose themselves and their culture among the mass of Canadians. This was an unchanging federal determination. The long-serving deputy superintendent general of Indian affairs, Duncan Campbell Scott, assured

Challenging the Change

The Six Nations have insisted consistently on their independent status, despite what Canada has claimed. This is the first such statement in the post-Confederation period. It also indicates the split in the community that would plague the Six Nations for generations, between those prepared to operate under the terms of the federal legislation and those wanting to maintain traditional relationships and structures. The nature of the text suggests it was prepared independently, without the aid of the local missionary or Indian department clerk, which was the usual procedure.

Oshweken Council House of the Six Nations Indians
17 August 1876

To the Honourable Mr. D. Laird
Superintendent of Indian Affairs

We the undersigned Chiefs & Members of the Six United Nation Indian Allies to the British Government residing on the Grand River, Township of Tuscarora, Onondaga and Oneida, in the counties of Brant and Haldimand Ont., to your Honourable our Brother by the treaty of Peace we thought it is fit and proper to bring a certain thing under your Notice which is a very great hindrance and grievance in our council for we believe in this part it is your duty to take it into consideration with your government to have this great hindrance and grievance to be removed in our council and it is this, one says we are subjects to the British Government and ought to be controled under those Laws which was past in the Dominion Parliament by your Government you personally, and the others (That is us) says we are not subjects but we are Allies to the British Government; and to your Honourable our Brother we will now inform you and your Government, personally, that we will not deny to be Allies but we will be Allies to the British Government as our forefathers were; we will further inform your Honourable our Brother and to your Government that we do now seprate from them henceforth we will have nothing to do with them anymore as they like to be controled under your Laws we now let them go to become as your own people, but us we will follow our Ancient Laws and Rules, and we will not depart from it.

Ononadaga Chiefs
[signed by 33 chiefs]

Source: NAC RG10, Red Series, volume 1995, file 6897, MR C11130, 17 August 1876 [original spelling and punctuation preserved].

Parliament in 1920 that "Our object is to continue until there is not a single Indian in Canada that has not been absorbed into the body politic and there is no Indian question".[93]

All of this was justified, in the minds of successive generations of politicians and departmental officials like Scott, by a sincere, Christian certainty that the nation's duty to the original people of the land was "to prepare [them] for a higher civilization by encouraging [them] to assume the privileges and responsibilities of full citizenship".

In the case of First Nations, Parliament, though it rarely provided adequate financial support, was only too willing to lend the weight of increasingly coercive legislation to the task, tightening departmental control of Indian communities in the service of economic and social change. In 1884 and 1885, the potlatch and the sundance, two of the most visible and spiritually significant aspects of coastal and plains culture respectively, were outlawed, although in practice the prohibition was not stringently enforced. The potlatch was portrayed as "the most formidable of all obstacles in the way of the Indians becoming Christian or even civilized".[94]

Participation in the potlatch was made a criminal offence, and it was also illegal to appear in traditional costume or dance at festivals. In 1921 Duncan Campbell Scott issued revealing instructions to his agents:

> It is observed with alarm that the holding of dances by the Indians on their reserves is on the increase, and that these practices tend to disorganize the efforts which the Department is putting forth to make them self-supporting.
>
> ...You should suppress any dances which cause waste of time, interfere with the occupations of the Indians, unsettle them for serious work, injure their health, or encourage them in sloth and idleness.[95]

The pass system allowed the department to regulate all economic activity among communities, including adjacent non-Aboriginal ones. No one who had not obtained an agent's leave would

> be allowed, on an Indian reserve, to barter, directly or indirectly, with any Indian, or sell to him any goods or supplies, cattle or other animals, without the special licence in writing.[96]

The restrictive constitutional circle drawn around First Nations by the governance sections of the *Indian Act* was duplicated in the economic sector by this special licence and by other provisions of the act that isolated communities from normal sources of financing, making them wholly dependent on the funding whims of the government.

Furthermore, communities found themselves isolated from resources, making their economic circumstances even more tenuous. At Confederation,

Excerpt from the *Indian Act,* 1876

CHAP. 18.

An Act to amend and consolidate the laws respecting Indians.

[Assented to 12th April 1876.]

TERMS

3.3 The term "Indian" means

First. Any male person of Indian blood reputed to belong to a particular band;

Secondly. Any child of such person;

Thirdly. Any woman who is or was lawfully married to such person:

(a) Provided that any illegitimate child, unless having shared with the consent of the band in the distribution moneys of such band for a period exceeding two years, may, at any time, be excluded from the membership thereof by the band, if such proceeding be sanctioned by the Superintendent-General:

(b) Provided that any Indian having for five years continuously resided in a foreign country shall with the sanction of the Superintendent-General, cease to be a member thereof and shall not be permitted to become again a member thereof, or of any other band, unless the consent of the band with the approval of the Superintendent-General or his agent, be first had and obtained; but this provision shall not apply

ownership and control of Crown land and resources was assigned to the provincial partners. In the northwest, land and resources were given initially to the dominion government to enable it to sponsor settlement. That was changed in 1930, however, with passage of the natural resources transfer agreements with the three prairie provinces. In these the federal government failed to take "any precaution, apparently, to safeguard the sacred trusts which had been guaranteed to the Indians by treaty."[97] Thereafter, Aboriginal access to off-reserve resources was controlled across the country by provinces – which, of course, had no responsibility for First Nations. Outside reserves, in trapping, hunting, fishing and in such traditional activities as wild rice harvesting, Aboriginal people faced licensing systems, provincial management programs, game wardens, and all too often fines and imprisonment, as well as the restrictions of international wildfowl conventions signed by the federal government.

The *Indian Act* further facilitated the imposition of the government's assimilative will by insisting on conformity with Canadian social mores and

to any professional man, mechanic, missionary, teacher or interpreter, while discharging his or her duty as such:

(c) Provided that any Indian woman marrying any other than an Indian or a non-treaty Indian shall cease to be an Indian in any respect within the meaning of this Act, except that she shall be entitled to share equally with the members of the band to which she formerly belonged, in the annual or semi-annual distribution of their annuities, interest moneys and rents; but this income may be commuted to her at any time at ten years' purchase with the consent of the band:

(d) Provided that any Indian woman marrying an Indian of any other band, or a non-treaty Indian shall cease to be a member of the band to which she formerly belonged, and become a member of the band or irregular band of which her husband is a member:

(e) Provided also that no half-breed in Manitoba who has shared in the distribution of half-breed lands shall be accounted an Indian; and that no half-breed head of a family (except the widow of an Indian, or a half-breed who has already been admitted into treaty), shall, unless under very special circumstances, to be determined by the Superintendent-General or his agent, be accounted an Indian, or entitled to be admitted into any Indian treaty.

providing penalties for non-compliance. Non-Aboriginal concepts of marriage and parenting were to prevail. The department could, for example,

> stop the payment of the annuity and interest money of, as well as deprive of any participation in the real property of the band, any Indian who is proved, to the satisfaction of the Superintendent General, guilty of deserting his family, or of conduct justifying his wife or family in separating from him...[and] may also stop the payment of the annuity...of any Indian parent of an illegitimate child...[98]

Those who failed to comply with any of the myriad social and economic regulations faced fines or imprisonment in a legal system whose integrity was undermined when Indian agents were made justices of the peace. The department then had the power to make and to enforce regulations, which had the force of law, with regard to the full spectrum of public and private life in communities. Aboriginal traditions – ritual life, social organization and the economic

The Hypocrisy of the Potlatch Law

Excerpt from correspondence from Chief Maquinna in defence of the potlatch, published in The Daily Colonist, *Victoria, B.C., 1 April 1896, under the heading "The Nootka Chief Speaks":*

> ...a whiteman told me one day that the white people have also sometimes masquerade balls and white women have feathers on their bonnets and the white chiefs give prizes for those who imitate best, birds or animals. And this is all good when white men do it but very bad when Indians do the same thing. The white chiefs should leave us alone...they have their games and we have ours. ...The potlatch is not a pagan rite; the first Christians used to have their goods in common as a consequence must have given 'potlatches' and now I am astounded that Christians persecute us and put us in jail for doing as the first Christians.
>
> Maquinna X (his mark)
> Chief of Nootka

practices of communities – were not only obstacles to conversion and civilization, but could be declared by Parliament or by departmental regulation to be criminal behaviour. Agents, appointed as magistrates, were to regulate the behaviour of their Aboriginal wards according to the *Act Respecting Offences against Public Morals and Public Convenience*, bringing into play the alien Victorian morality encoded in it (see Chapter 9).

By far the most ambitious and tragic initiative, however, was the joint government and church residential school program. Introduced originally for Indian children, the system would eventually draw children from almost every Aboriginal community – Indian, Métis and Inuit – across the country. Beginning in 1849, the program developed to include boarding schools, built close to the reserves for children between the ages of 8 and 14, and industrial schools, placed near non-Aboriginal urban centres to train older children in a range of trades. The schools – 80 of them at the high point – were the centrepiece of the assimilation strategy. As pupils in boarding institutions whose affairs were conducted wholly in English (or French, in some of the schools in Quebec), the children were separated "from the deleterious home influences to which [they] would be otherwise subjected" and brought into contact with "all that tends to effect a change in [their] views and habits of life".[99] Canada, through the agency of the department and the churches, presumed to take over the parenting of Aboriginal children so that they "could take their place anywhere among the

people of Canada".[100] It did not discharge its self-appointed task in a manner Canadians can be proud of.

From the outset, there were serious problems with residential schools. There was never enough funding, and thus the buildings, often badly designed and constructed, deteriorated quickly. Bad management, unsanitary conditions and abuse of the children were more than occasional exceptions to the rule. Parents, and indeed many local agents, were reluctant to send children to the schools, particularly the industrial schools, which were far away and seemed to benefit neither the child nor the community. The department, unable to get adequate funding from Parliament or contributions from the churches, abandoned the ambitious industrial school model by 1920. Thereafter, the emphasis was placed on the boarding schools which, while less expensive, were judged by accepted standards of child care and education to be a dismal failure, leaving deep scars across communities and the conscience of a nation.

The removal of children from their homes and the denial of their identity through attacks on their language and spiritual beliefs were cruel. But these practices were compounded by the too frequent lack of basic care – the failure to provide adequate food, clothing, medical services and a healthful environment, and the failure to ensure that the children were safe from teachers and staff who abused them physically, sexually and emotionally. In educational terms, too, the schools – day and residential – failed dramatically, with participation rates and grade achievement levels lagging far behind those for non-Aboriginal students (see Chapter 10).

When a joint committee of the Senate and the House of Commons on the *Indian Act* met in Ottawa in 1946, the members, looking out across Aboriginal Canada, could not see the progressive results of the assimilation strategy that had been forecast so consistently by the department since Confederation. Voluntary enfranchisements were rare. But more tragically the pre-conditions for enfranchisement – social and economic change and positive community development to enable Aboriginal people to enjoy the standard of living of other Canadians – were not readily apparent. Rather, in every category – health, employment, education and housing – the conditions endured by Aboriginal people made them what they were in constitutional affairs: second class citizens. Across the country, communities were trapped in a colonial system that denied them any degree of self-determination, consigned them to poverty, corroded families and individuals, and made them too often the objects of social welfare agencies and penal institutions.

When Duncan Campbell Scott retired from the department in 1933, he had clearly left unresolved the "Indian problem". There it still was in 1946. But in evidence as well was the continuing determination of Aboriginal peoples not to let the government "break them to pieces", to defend their culture and to seek the good

life on their own terms. At banned potlatches and hidden thirst dances, at Dene gatherings, in Iroquois longhouses and on across the North and the Maritimes, the peoples had continued to gather to express and celebrate their cultures.

This determination had taken new forms as well. Modern political organizations with talented leaders were developed. Such leaders were determined to become a central part of the solution – not to the "Indian problem", but to the problem of colonialism by struggling for self-determination within Confederation on the basis of recognition of the worth of Aboriginal peoples' contribution and of the contribution of their culture to the nation. As early as 1918, F.O. Loft declared, when organizing the League of Indians, the first attempt at a national organization:

> In politics, in the past they [Indian people in Canada] have been in the background....
>
> As peaceable and law-abiding citizens in the past, and even in the late war, we have performed dutiful service to our King, Country and Empire, and we have the right to claim and demand more justice and fair play as recompense, for we, too, have fought for the sacred rights of justice, freedom and liberty so dear to mankind, no matter what their colour or creed.
>
> The first aim of the League then is to claim and protect the rights of all Indians in Canada by legitimate and just means; second, absolute control in retaining possession or disposition of our lands; that all questions and matters relative to individual and national wellbeing of Indians shall rest with the people and the dealings with the Government shall be by and through their respective band Councils.[101]

9. Conclusion

In this third stage, which we have called displacement and assimilation, we have noted how non-Aboriginal western society has become predominant in population and in power terms. Thus it has had the capacity to impose its will on Aboriginal societies – and it has also been motivated to do so.

The motivation was in part economic, as the commercial economy based on the fur trade and other natural resources was pushed from centre stage and replaced by the drive for expansionary settlement of the continent and for agricultural and, later, industrial production. In this context, from a western perspective, Aboriginal peoples were seen to stand in the way, for they inhabited and claimed title to vast stretches of land.

The transition in the relationship was also pushed by the western belief in 'progress' and in the evolutionary development of human beings from lesser to greater states of civilization. Long-standing western beliefs in racial and cultural

superiority were given a scientific veneer during this stage, as theories such as those linking intelligence to the size of the brain came into play and theories of evolution were used to justify racist assumptions. This was accompanied by a belief in the destiny of European cultures to expand across North America and eventually to take over the whole land base.

In this perspective, western society was seen to be at the forefront of evolutionary development, with Aboriginal peoples lagging far behind. As a result, Aboriginal peoples needed to be protected in part, but also guided – even required – to catch up, in a process of accelerated evolution. Relegated in this way to a secondary position, they were not regarded as appropriate participants in discussions of a changed relationship (such as Confederation and the subsequent admission of new provinces to the federation). Rather, decisions were made unilaterally, and a centralized administrative system was established to bring about directed change.

These ideas of how the relationship should be changed were profoundly at odds with Aboriginal conceptions of how relations in human societies and with the natural world should be conducted. In this period, Aboriginal peoples sought to continue the terms of the original relationship – a relationship of equality among nations, where each retained its autonomy and distinctiveness, where each had a separate as well as a shared land base, and where the natural world was respected.[102]

Resistance was particularly strong with respect to efforts to assimilate Aboriginal people or to merge Aboriginal and western societies into one – based, of course, on the western model. If successful, this attempt to eliminate the distinctive features of Aboriginal societies would, from an Aboriginal perspective, have destroyed the balance of life, which requires that each of the societies originally created be maintained in order to sustain the overall functioning of the universe.

This is not to say that, from an Aboriginal perspective, the relationship needed to remain unchanged. Adjustments could be made in the shared land and resource base, for example, as western settlers increased in number. If changes were required, from an Aboriginal perspective they should be made through a process of continuing dialogue and mutual agreement, a process of creating a harmonious environment in which a middle ground could be achieved. This was more likely to happen if concepts such as sharing (lands, resources, or powers) were adopted, instead of concepts such as win-lose or extinguishment.

In contrast to western society's linear conception of progress and evolution, Aboriginal conceptions continued to be based on the concept of the circle. For example, western conceptions spoke of the evolution of different forms of production from simple to more complex, with the latter replacing the former over time (and never to return to them again). By contrast, Aboriginal perspectives continued to emphasize diversity and local autonomy. In this view, different

groups have adopted ways of life best suited to their local needs and circumstances; each is equally valid and should not be expected to change unless the group believes that a different model would meet their needs better.

In discussing the previous stage, early contact and co-operation, we suggested that even if Aboriginal and non-Aboriginal societies did not have a shared perspective on the relationship, it was still possible for the fundamental elements of the Aboriginal perspective to be realized in practice. In the period of displacement, there was no ambiguity. The two perspectives were clearly different, and the non-Aboriginal society had the capacity to impose its will. In Mark Dockstator's view, the result was a dysfunctional relationship:

> From one perspective, Aboriginal society was subjected to the external forces of Western society which were designed to displace Aboriginal society...
>
> At the same time and in contrast to this external pressure, Aboriginal society was attempting to maintain the nation-to-nation relationship...
>
> The dysfunctional nature of the societal relationship caused by the action of two opposite forces on Aboriginal society was further exacerbated by the imposition of a Western-based administrative system. One of the purposes of the system is to place boundaries, or parameters of acceptable behaviour and actions, around Aboriginal society. By restricting and thereby controlling the lifestyle of Aboriginal people, the administrative system acted to isolate Aboriginal society from both mainstream society and the larger physical environment. Consequently, the social ills resulting from the imbalance of Aboriginal society were "turned inward"; the natural release mechanisms employed by Aboriginal society to vent "negative forces" were foreclosed by the operation of the Western administrative system.[103]

As we have seen from the accounts of key events and issues during this stage, the period of displacement did great damage to Aboriginal societies. They were not defeated, however. Resistance at times took the form of passive non-cooperation (for example, with respect to the enfranchisement initiative), at times defiant continuation of proscribed activities (with respect to the potlatch and the sundance, for instance), and in more recent decades it has taken the form of vocal and organized opposition.

From the perspective of non-Aboriginal society, especially those charged with the conduct of the relationship, it became evident over time that the isolation/assimilation strategy was not working. As early as the first decade of the 1900s, some missionaries and civil servants recognized the lack of success of the industrial and residential schools. By the end of the second decade, efforts were

being made to modify the strategy, although initially the direction of change was to tighten the screws of the system rather than to consider alternatives. Thus, the *Indian Act* of 1927 contained stronger measures to intervene in and control the affairs of Aboriginal societies, including further efforts to develop an agricultural economy in the expectation that social and cultural change would follow in its wake. That act was also notable for its response to Aboriginal political organizations pursuing land issues, especially in British Columbia. An amendment was added making "raising a fund or providing money for the prosecution of any claim" a crime unless permission was obtained.[104]

After the Second World War, the search for new approaches to policy continued, especially through the hearings of a joint committee of the Senate and the House of Commons sitting between 1946 and 1948. This provided an occasion for Aboriginal interveners and others to state in strong terms the problems with the existing relationship, but the committee's report was a major disappointment. The recommendations suggested the removal of many of the more coercive elements of the *Indian Act* (and this was accomplished with the amendments of 1951), but the changes fell far short of challenging the prevailing assimilationist framework.

Twenty years later, there was another opportunity to hear Aboriginal voices, as the federal government worked toward a new policy, but again there was major disappointment with the result. The "Statement of the Government of Canada on Indian Policy, 1969" ignored the consultations that accompanied the policy review and proceeded to recommend measures designed to achieve integration and equality: Indian people were to be allowed to retain their cultures, much as other Canadians do in a multicultural society, but they were to give up the other features that make them distinct – elements such as treaties, Aboriginal rights, exclusive federal responsibility, and the department of Indian affairs. The overwhelmingly hostile response to this policy initiative on the part of Aboriginal people, and subsequent court decisions that recognize the validity of Aboriginal and treaty rights, marked an important turning point in the relationship.

Notes

1. J.R. Miller, *Skyscrapers Hide the Heavens: A History of Indian-White Relations in Canada*, revised edition (Toronto: University of Toronto Press, 1989), p. 92.
2. Robin Fisher, *Contact and Conflict: Indian-European Relations in British Columbia, 1774-1890* (Vancouver: University of British Columbia Press, 1977), chapters 1 and 2.
3. D.K. Fieldhouse, *The Colonial Empires: A Comparative Survey from the Eighteenth Century* (London: Weidenfeld and Nicolson, 1965).

4. However, more centralized structures emerged in the southeastern United States and, of course, among societies such as the Aztec and the Inca. See Alvin M. Josephy, Jr., *500 Nations* (New York: Alfred A. Knopf, 1994); Ronald Wright, *Stolen Continents: The New World Through Indian Eyes Since 1492* (Toronto: Viking Penguin, 1992); and Betty Ballantine and Ian Ballantine, ed., *The Native Americans: An Illustrated History* (Atlanta: Turner Publishing, Inc., 1993).

5. This account is enlarged upon in Chapter 9, where we discuss the *Indian Act.*

6. Some people of mixed Aboriginal/non-Aboriginal ancestry and culture refer to themselves or are labelled by others as Métis, regardless of their geographic location or region of origin. The Commission also uses this designation, but recognizes that the term Métis Nation refers to Métis people who identify as a nation with historical roots in the west. For further discussion, see Volume 4, Chapter 5.

7. John Leslie documents six formal commissions of inquiry launched by British officials in the period between 1828 and 1859. He argues that the search for ways to reduce the cost of Indian administration in Canada was an important motivation in establishing the commissions. "The legacy of these reports for Canadian Indian policy has been so enduring that, only recently, has the Federal government attempted to break from the long-standing view of Native peoples and society established before Confederation." John F. Leslie, *Commissions of Inquiry into Indian Affairs in the Canadas, 1828-1858: Evolving a corporate memory for the Indian department* (Ottawa: Indian Affairs and Northern Development, February 1985), p. ii.

8. Laprairie (1649), Becancourt (1680), Oka (1714) and St. Regis (1759). For a discussion of the establishment of these reserves, see G.F.G. Stanley, "The First Indian 'Reserves' in Canada", *Revue d'histoire de l'Amérique française* 4/2 (September 1950), pp. 178-185.

9. The British may have drawn on the examples provided by New France, but there were many other examples of religious and protected settlements in colonial British North America.

10. The origin of reserves in Ontario and other parts of Canada is described in Richard H. Bartlett, *Indian Reserves and Aboriginal Lands in Canada: A Homeland* (Saskatoon: University of Saskatchewan Native Law Centre, 1990), pp. 10-14.

11. See Leslie, *Commissions of Inquiry* (cited in note 7).

12. For a brief discussion of the situation in the Maritimes, see Bartlett, *Indian Reserves and Aboriginal Lands* (cited in note 10), pp. 14-15. Concerning the history of the Maritime provinces, see also Leslie F.S. Upton, *Micmacs and Colonists: Indian-White Relations in the Maritimes, 1713-1867* (Vancouver: University of British Columbia Press, 1979).

13. The Conne River Band was created by federal order in council (P.C. 1984-2273), 28 June 1984.

14. At that time, Vancouver Island and British Columbia were separate Crown colonies.

15. Frank Cassidy and Norman Dale, *After Native Claims? The Implications of Comprehensive Claims Settlements for Natural Resources in British Columbia* (Halifax and Lantzville, B.C.: Institute for Research on Public Policy and Oolichan Books, 1988), p. 6.

16. National Archives of Canada, Record Group 10 [NAC RG10], volume 252, part 2.

17. In any event, the development of distinct Métis communities was not primarily a question of intermarriage, but one of growing cultural uniqueness and group self-consciousness.

18. The application of the Royal Proclamation to much of the territory where Métis people lived was questionable, in any event, since it apparently exempted both existing colonies and the vast territory of the Hudson's Bay Company, Rupert's Land, from the land reserved for Indian use. A later order in council, passed in 1870 and applicable explicitly to Rupert's Land, used the terms "Indian tribes" and "Aborigines". For a more extensive discussion of the 1870 order, see Volume 4, Chapter 5.

19. Report of the Chief Superintendent of Indian Affairs, 1845, quoted in Martin F. Dunn, "All My Relations: The Other Métis", discussion paper prepared for the Royal Commission on Aboriginal Peoples [RCAP] (April 1994). For information about papers prepared for RCAP, see *A Note About Sources* at the beginning of this volume.

20. Jacqueline Peterson, "Many roads to Red River: Métis genesis in the Great Lakes region, 1680-1815", in *The New Peoples: Being and Becoming Métis in North America*, ed. Jacqueline Peterson and Jennifer S.H. Brown (Winnipeg: University of Manitoba Press, 1985), p. 44.

21. The term 'half-breed', offensive today, was the usual English equivalent of the term Métis at that time and is used here in the absence of any other appropriate expression to distinguish the English-speaking group from their French-speaking counterparts.

22. Peterson, "Many roads to Red River" (cited in note 20), p. 64.

23. A.M. Burgess to T.M. Daly, Minister of the Interior, 27 March 1895, attached to Order in Council P.C. 3723, 28 December 1895.

24. The relationship between earlier peace and friendship treaties and these later land purchase or land surrender agreements is not clear. The land surrenders between 1763 and 1850 appear to be land transactions rather than treaties based on mutual obligations and exchange, as was the case with the earlier treaties and the numbered treaties to follow.

25. NAC RG10, volume 5, number 2082-2084, 3 April 1829, "A Statement of the Mississaugue Indians settled at Credit River, Agreed on in their Council". (The Mississauga are Ojibwa and inhabited most of south-central Ontario at the time of British settlement in the late eighteenth century.)

26. *Wesleyan Methodist Report, 1857* (Toronto: Wesleyan Methodist Church of Canada Annual Reports, 1828-1885), p. xxiii.

27. The reliability, accuracy and completeness of treaties and land surrenders during this early period are identified and analyzed by Patricia Kennedy in "Treaty Texts: When Can We Trust the Written Word?", *Social Sciences and Humanities Aboriginal Research Exchange* 3/1 (Spring/Summer 1995).

28. Thalassa Research, "Nation to Nation: Indian Nation/Crown Relations in Canada", research study prepared for RCAP (1994). (For information about research studies prepared for RCAP, see *A Note About Sources* at the beginning of this volume.) This study provides examples of frauds and abuses in the sale of Indian lands. The report demonstrates that much if not most of the revenues from 'surrenders' were used for purposes other than the benefit of the Indian nations that had surrendered the land. Further, the policy of the colonial administration was to make the Indian department financially self-sufficient through the sale of Indian lands. In short, the Indians paid for their own benefits but had no control over the expenditures. See Leslie, *Commissions of Inquiry* (cited in note 7), pp. 145, 146.

29. Ian Johnson, "British-Tribal Relations in the Colonial Period", unpublished manuscript (Union of Ontario Indians, 1986).

30. Olive Dickason, *Canada's First Nations: A History of Founding Peoples from Earliest Times* (Toronto: McClelland & Stewart, 1992), p. 238.

31. NAC RG 10, volume 262, part 1, no. 1436.

32. It was the practice of governments before and after Confederation to appoint senior public officials as commissioners to conduct treaty negotiations on their behalf. William McDougall, for example, was superintendent general of Indian affairs. For simplicity, we use the term commissioner in this discussion of treaty making.

33. Report from William McDougall to His Excellency the Governor General in Council, 3 November 1862, in Alexander Morris, *The Treaties of Canada with the Indians of Manitoba and the North-West Territories* (Toronto: Belfords, Clarke & Co., 1880; facsimile edition, Coles Publishing Company, 1979), p. 23.

34. W.R. Wightman, *Forever on the Fringe: Six Studies in the Development of Manitoulin Island* (Toronto: University of Toronto Press, 1982), pp. 40-46.

35. James Morrison, "The Robinson Treaties of 1850: A Case Study", research study prepared for RCAP (1993).

36. Morrison, "The Robinson Treaties".

37. Morris, *Treaties of Canada* (cited in note 33), p. 303.

38. Morrison, "The Robinson Treaties" (cited in note 35). This study provides an in-depth account of treaty negotiations from both the Crown and the Indian perspective.

39. Morrison, "The Robinson Treaties".

40. Lewis H. Thomas, *The Struggle for Responsible Government in the North-West Territories, 1870-97*, second edition (Toronto: University of Toronto Press, 1978).

41. Historians who have studied the numbered treaties have often done so in the form of an examination of a particular treaty in a particular region, bringing to bear pieces of documentary evidence and oral history. This approach brings out the differences from one treaty area to another in what was discussed, understood and concluded. There is a continuing debate on such important issues as the treatment of land and political sovereignty in treaty negotiations. See, for example, Jean Friesen, "Magnificent Gifts: The Treaties of Canada with the Indians of the Northwest 1869-76", in *Transactions of the Royal Society of Canada*, series V, volume 1 (1986), pp. 41-51; René Fumoleau, *As Long As This Land Shall Last*: A History of Treaty 8 and Treaty 11 1870-1939 (Toronto: McClelland and Stewart Limited, 1975); Richard Price, ed., *The Spirit of the Alberta Indian Treaties* (Montreal: Institute for Research on Public Policy, 1979).

42. Doctors and other forms of medical care were discussed in other treaties as well; see Kenneth S. Coates and William R. Morrison, *Treaty Ten, 1906* (Treaties and Historical Research Centre, Indian and Northern Affairs, 1986), pp. 66-67.

43. Morris, *The Treaties of Canada* (cited in note 33), pp. 13-15. For a discussion of the Selkirk Treaty, see Jim Gallo, "The Yellow Quill Band and The Land Question: The 1906 Expropriation and the 1908 Land Surrender of part of Swan Lake Reserve I.R. No. 7" (Treaties and Aboriginal Rights Research, May 1977, revised March 1978).

44. The discussions among the Indian nations revolved around who had the authority to make the Selkirk Treaty on behalf of the Indian nations, since the Red River territory had been occupied by the Cree, the Assiniboine, the Sioux and, more recently, the Ojibwa.

45. John L. Tobias, "Canada's Subjugation of the Plains Cree, 1879-1885", *Canadian Historical Review* LXIV/4 (December 1983), p. 520.

46. Morris, *Treaties of Canada* (cited in note 33), p. 26. The Indians at Portage, in turning back settlers as soon as they passed the Selkirk Treaty boundary, gave notice that they were protecting their lands, which included everything outside the Selkirk Treaty boundaries.

47. Morris, *Treaties of Canada*, p. 37.

48. Morris, *Treaties of Canada*, pp. 28, 29.

49. An account of the discussions on these matters is found in D.J. Hall, "'A Serene Atmosphere'? Treaty 1 Revisited", *Canadian Journal of Native Studies* 4/2 (1984), pp. 321-358.

50. The negotiations concerning land were difficult because Lieutenant Governor Archibald wanted to maximize the number of immigrants who could be settled on the land, which meant whittling down the size of the Indian land base, but the Indians would not agree to this proposition.

51. Morris, *Treaties of Canada* (cited in note 33), p. 126.

52. Department of Public Works, Record Group 11 [DPW RG11], volume 265, S.J. Dawson, report to the government, 1864.

53. DPW RG11, report to the government, 1861.

54. Henry Youle Hind, *Narrative of the Canadian Red River Exploring Expedition of 1857 and of the Assiniboine and Saskatchewan...*, two volumes (London: Longman, Green, Longman, and Roberts, 1869; reprinted New York: Greenwood Press, 1969), p. 99.

55. DPW RG11, volume 265, report to the government, 1869.

56. Morris, *Treaties of Canada* (cited in note 33), pp. 59-62. The words "give them up again" refer to the failure to compensate them adequately for the Dawson route.

57. Morris, *Treaties of Canada*, p. 72.

58. This was not always the case, as evidenced by the Lubicon Cree and others who were missed by treaty commissioners in their forays to get adhesions.

59. Commissioner Alexander Morris negotiated Treaties 4, 5 and 6 with the Cree, Saulteaux, Assiniboine and Dene nations across Manitoba, Saskatchewan and Alberta. Commissioner David Laird negotiated Treaty 7 with the Blackfoot, Sarcee, Blood and Stoney nations.

60. Morris, *Treaties of Canada* (cited in note 33), p. 10.

61. The Cree, Ojibwa and Assiniboine were allies, and the Blackfoot Confederacy consisted of four nations – Blackfoot, Blood, Sarcee, and Peigan. The territorial domain of the Blackfoot and Assiniboine extended into the United States. John Taylor notes that "Until settlement altered the population ratio the Indian warrior was a military factor to be taken seriously. Settlement and development could only be carried out if steps were taken to obtain native acquiescence." See John L. Taylor, "Development of Canadian Policy for the North-West, 1869-79", PHD dissertation, Queen's University, Kingston, 1975, pp. 267-268.

62. It is clear that the buffalo were still available to hunt in 1877, since treaty commissioners travelling from Battleford to Fort McLeod during the summer of 1877 reported seeing many small herds of buffalo on the plains. See Morris, *Treaties of Canada* (cited in note 33), p. 252.

63. Piapot and the Assiniboine Chiefs were not present for negotiations in 1874. A year later commissioners were told by those absent in 1874 that they believed that a treaty had not been made: "An idea seemed prevalent among the Indians who were absent last year that no treaty had been concluded then; that all which had been done at that time was merely preliminary to the making of the treaty in reality, which they thought was to be performed this year." Morris, *Treaties of Canada*, report from W.J. Christie, Indian commissioner, and M.G. Dickieson on the Qu'Appelle Treaty, p. 86.

64. Morris, *Treaties of Canada*, pp. 141-142. Morris refers to the fact that the Saulteaux (Ojibwa) were in contact with their Ojibwa brothers in Treaties 1, 2 and 3.

65. Morris, *Treaties of Canada*, pp. 143-144.

66. Morris, *Treaties of Canada*, pp. 170-171. The Cree wanted a strong law to prevent the use of strychnine, which had almost exterminated the animals and whose use had created tensions between non-Aboriginal people and the Indigenous peoples of the plains. For years they had also been sending messages to the Crown asking for laws to halt the slaughter of the buffalo.

67. Morris, *Treaties of Canada*, p. 173, report from Reverend McDougall.

68. Quoted in Morris, *Treaties of Canada*, p. 176.

69. Morris, *Treaties of Canada*, p. 204.

70. "A medicine chest will be kept at the house of each Indian agent, in case of sickness amongst you." Quoted in Morris, *Treaties of Canada*, p. 218.

71. According to the reports tabled on the making of Treaty 7, there were open hostilities between the Blackfoot, south of the border, and U.S. troops. A treaty had been made between the government of the United States and the Blackfoot in 1855.

72. Morris, *Treaties of Canada*, p. 248.

73. Morris, *Treaties of Canada*, Blackfoot Treaty, pp. 267-269.

74. Morris, *Treaties of Canada*, pp. 245-275.

75. NAC RG10, volume 3848, file 75236-1, James Walker to Clifford Sifton, 30 November 1897.

76. NAC RG10, volume 3848, file 75236-1, Forget to Secretary of Indian Affairs, 25 April 1898.

77. NAC, Church Missionary Society MG17 B2, microfilm A-120, document 68, G. Holmes to Committee, 3 April 1899.

78. Affidavit of J.A.R. Balsillic, quoted in Appendix II of Fumoleau, *As Long As This Land Shall Last* (cited in note 41), p. 340.

79. Meeting at Lesser Slave Lake, quoted in Fumoleau, *As Long As This Land Shall Last*, pp. 74-75.

80. Fumoleau, *As Long As This Land Shall Last*, p. 41.

81. Fumoleau, *As Long As This Land Shall Last*, p. 216.

82. Fumoleau, *As Long As This Land Shall Last*, p. 216.

83. *Re Paulette*, [1973] 6 W.W.R. 97 and 115, quoted in Dennis F.K. Madill, *Treaty Research Report, Treaty Eight* (Ottawa: Treaties and Historical Research Centre, Indian and Northern Affairs, 1986).

84. Whether the woodland and plains nations, which were not familiar with farming, would have understood such a formula is questionable. Acreages might have been

familiar to those who farmed or had small gardens but to woodland and plains peoples who did not farm, and who described their lands by their geographic boundaries or the time it took to travel in one day, the land quantum formula found in treaties was likely incomprehensible. There appears to have been little discussion of what this formula entailed in most of the treaty negotiations.

85. The Commission's conclusions regarding the steps that must be taken with respect to the treaties are elaborated in Volume 2, Chapter 2.

86. Historically, the interpretation of Indian rights often resided with a small group of government officials who have tended not to adopt an expansive interpretation of Indian treaties. This has often meant that public policy on key issues has been based on a narrow interpretation of jurisprudence.

87. Clauses in the treaties provided that Indian lands could be expropriated for public works, but these clauses were not explained to First Nations representatives when the treaties were signed.

88. The limitations on the Crown's powers to affirm exclusive rights embodied in treaties is discussed in Roland Wright, "The Public Right of Fishing, Government Fishing Policy, and Indian Fishing Rights in Upper Canada", *Ontario History* 86/4 (December 1994), pp. 337-362.

89. Section 88, added to the *Indian Act* in 1951, provided that federal and provincial laws would apply subject to treaty provisions. The impact of this section is discussed in Chapter 9.

90. Malcolm Montgomery, "The Six Nations Indians and the Macdonald Franchise", *Ontario History* 57 (1965), p. 13.

91. Morris, *Treaties of Canada* (cited in note 33), pp. 296-297.

92. In practice, however, Inuit were subject to some federal policies even before 1939.

93. J. Leslie and R. Maguire, ed., *The Historical Development of the Indian Act*, second edition (Ottawa: Treaties and Historical Research Centre, Indian Affairs and Northern Development, 1978), p. 115.

94. William Duncan to David Laird, May 1875, quoted in Fisher, *Contact and Conflict* (cited in note 2), p. 207.

95. Stan Cuthand, "The Native Peoples of the Prairie Provinces in the 1920s and 1930s", in *One Century Later: Western Canadian Reserve Indians Since Treaty 7*, ed., Ian A.L. Getty and Donald B. Smith (Vancouver: University of British Columbia Press, 1978), p. 39.

96. Statutes of Canada 1890, chapter 29, section 134.2 (53 Victoria).

97. Special Joint Committee of the Senate and the House of Commons appointed to continue and complete the examination and consideration of the Indian Act, *Minutes of Proceedings and Evidence*, No. 30, 5 June 1947, p. 1593.

98. Statutes of Canada 1898, chapter 34, section 7 (61 Victoria).

99. Canada, Sessional Papers, volume 10, number 12 (1890), p. xi.

100. Special Joint Committee (cited in note 97), p. 1647.

101. Cuthand, "The Native People of the Prairie Provinces" (cited in note 95), p. 31.

102. Mark S. Dockstator, "Towards an Understanding of Aboriginal Self-Government: A Proposed Theoretical Model and Illustrative Factual Analysis", doctor of jurisprudence dissertation, Osgoode Hall Law School, York University, 1993, chapters 5 and 6.

103. Dockstator, "Towards an Understanding of Aboriginal Self-Government", pp. 102, 104, 105.

104. Revised Statutes of Canada 1927, chapter 98, section 141.

7

Stage Four: Negotiation and Renewal

The release of the white paper on federal Indian policy in 1969 generated a storm of protest from Aboriginal people, who strongly denounced its main terms and assumptions. It left in its wake a legacy of bitterness at the betrayal of the consultation process and suspicion that its proposals would gradually be implemented. However, it also served to strengthen the resolve of Aboriginal organizations to work together for a changed relationship. This marked the beginning of a new phase in Aboriginal/non-Aboriginal relations.

We have characterized this fourth stage in the relationship between Aboriginal and non-Aboriginal people in Canada as a period of negotiation and renewal, and it is this stage that is still under way. By the early 1970s, it was clear even to most people in non-Aboriginal society that substantial changes in the relationship were required, and negotiations taking various forms ensued – at road block sites, in legislative offices, across the constitutional bargaining table and in international forums. These discussions gradually brought about a better understanding of the Aboriginal perspective and some movement toward a middle ground. A particularly important development was the adoption of a constitutional provision that recognized and affirmed existing Aboriginal and treaty rights and that included Métis people, Inuit and First Nations within the definition of the Aboriginal peoples of Canada.[1] The negotiations were far from smooth, however, and reversals were not uncommon.

We begin our discussion of this period with a review of the major political and constitutional milestones of negotiation, ending with the discussions surrounding the Charlottetown Accord. We go on to describe the evolution of thinking in Canadian courts with respect to Aboriginal and treaty rights. We review several major decisions of the Supreme Court of Canada and refer as well to provincial court judgements. While recognizing the shortcomings of relying

on the courts to redefine the relationship, the decisions do for the most part provide some support for the recognition of Aboriginal and treaty rights. As such, they provide a stimulus to political negotiations.

Finally, the last several decades have also seen much more activity to advance Aboriginal interests at the international level, developments that have had important implications for the Aboriginal/state relationship within Canada. Aboriginal peoples within Canada have formed alliances with similar groups in other countries. They have also played an important role in persuading international organizations such as the United Nations to have indigenous rights recognized at the international level and to apply those standards to specific instances of injustice within Canada. As an example of these developments, we profile the emergence of internationalism among Inuit, with particular attention to the Inuit Circumpolar Conference, an organization that brings Inuit from the world's Arctic regions together as a people on issues of common concern, despite the boundaries imposed by nation-states.

1. Legislative and Constitutional Attempts: From the White Paper to Charlottetown, 1969-1992

The years 1969 to 1992 saw tumultuous relations between Aboriginal people and successive Canadian governments. It began with the federal government's 1969 white paper on Indian policy, which sought to terminate the federal government's special relationship with Aboriginal peoples. It included the standoff at Kanesatake (Oka) in the summer of 1990, captured in a photograph of a battle-ready Canadian soldier face-to-face with an armed, masked Mohawk warrior. And it ended with the defeat of the Charlottetown Accord in a Canada-wide referendum. Two broad themes emerged from this story: the inability of governments, through constitutional reform, land claims policy and government programming, to resolve long-standing disputes with Aboriginal peoples; and the gathering strength of Aboriginal peoples and their political organizations to respond to this failure.

The white paper came shortly after Pierre Trudeau's first election victory as leader of the federal Liberal party, and his successful 1968 campaign for a "just society". The policy proposals in the white paper sought to end the collective rights of Aboriginal people in favour of individual rights. Included were plans to eliminate the protection for reserve lands, to terminate the legal status of Indian peoples, and to have services delivered to them by provincial governments.

The white paper became a rallying cry for Aboriginal people, and their response was fast and strong. Harold Cardinal, then president of the Indian

> [A] separate road cannot lead to full participation, to equality in practice as well as theory. ...[T]he Government has outlined a number of measures and a policy which it is convinced will offer another road for Indians, a road that would lead gradually away from different status to full social, economic and political participation in Canadian life. This is the choice.
>
> Indian people must be persuaded, must persuade themselves, that this path will lead them to a fuller and richer life.
>
> *Statement of the Government of Canada on Indian Policy, 1969*

Association of Alberta, responded with what became known as the 'red paper', in which he described how Indian peoples, as peoples with distinct cultures, wished to contribute to Canadian society while at the same time exercising political and economic power at the community level. The red power movement gave birth to the first cross-Canada political organization of Indian people, the National Indian Brotherhood. The federal government backed down from the white paper, although its underlying philosophy seemed to animate federal policy for years to come.

The federal government established an Indian Claims Commission later that year, with Lloyd Barber as commissioner. His mandate, assigned in December 1969, was to review and study grievances concerning Indian claims. His report, tabled in 1977, described the depth and range of issues to be addressed:

> It is clear that most Indian claims are not simple issues of contractual dispute to be resolved through conventional methods of arbitration and adjudication. They are the most visible part of the much, much more complex question of the relationship between the original inhabitants of this land and the powerful cultures which moved in upon them. That the past relationship has been unsatisfactory both for [Aboriginal people] and for [Canadian society] cannot be in dispute. There are too many well-documented cases where [Canada] failed to live up to obligations [that were] presumably entered [into in] good faith, and which Indians accepted with equal or greater faith. Satisfactory settlement of these obligations can help provide the means for Indians to regain their independence and play their rightful role as a participating partner in the Canadian future. The claims business is no less than the task of redefining and redetermining the place of Indian people within Canadian society. They themselves are adamant that this shall be done, not unilaterally as in the past, but with them as the major partner in the enterprise.[2]

Although publication of the white paper coincided with constitutional discussions among federal and provincial governments, these were two very separate paths. The main items for constitutional discussion included the division of powers between the federal and provincial governments, regional disparities, institutional reform, official languages, a charter of rights and an amending formula. Aboriginal rights were not on the table. They would remain off the table for the next 10 years.

During the 1970s, relations were driven by the growing consciousness of Aboriginal peoples and by key decisions of the courts. Aboriginal people in Canada began to look to what was happening around the world. The United Nations was calling for the decolonization of all territories that were geographically and culturally distinct from the states administering them and in a subordinate position politically, socially or economically. New states were being carved out of former European empires. The doctrine of decolonization was not applied to North and South America, however, since, it was argued, countries like the United States and Canada did not control and exploit Aboriginal peoples. This did not prevent Aboriginal peoples in the Americas from pointing to the 'internal colonialism' they suffered.

Aboriginal people from Canada were at the forefront of efforts to form an international network of Aboriginal peoples. The Inuit Circumpolar Conference is described later in this chapter. The World Council of Indigenous Peoples, the first international organization of Aboriginal peoples, owes a great debt to the vision of Canadian Aboriginal leaders such as George Manuel. It was George Manuel who secured non-governmental organization status for the National Indian Brotherhood in 1974 and who went to Guyana that year to attend the preparatory meeting of what was to become the World Council of Indigenous Peoples. The founding meeting was held on Vancouver Island in 1975. Section 1 of the charter of the World Council of Indigenous Peoples addresses the purposes of the organization:

> This organization has been formed in order to ensure unity among the Indigenous Peoples, to facilitate the meaningful exchange of information among the Indigenous Peoples of the world, and to strengthen the organizations of the Indigenous Peoples in the various countries. The organization is dedicated to: abolishing the possibility of the use of physical and cultural genocide and ethnocide; combating racism; ensuring political, economic and social justice to Indigenous Peoples; to establishing and strengthening the concepts of Indigenous and cultural rights based upon the principle of equality among Indigenous Peoples and the peoples of nations who may surround them.[3]

For the first time, Maoris from New Zealand, Aborigines from Australia, Sami from Scandinavia, Inuit from Greenland, Miskitos from Nicaragua, and

First Nations from Canada and the United States could talk to one another and begin building indigenous solidarity. George Manuel was chosen as the first president. His message, and the objective of the World Council, were clear:

> Organize and unify around a clear set of objectives. Battle against all the forces of assimilation and try to build your nations economically, culturally and politically. Consult the people, politicize the people and never get too far ahead of them, because when all is said and done, they are your masters.[4]

Manuel spoke for many when he concluded that Aboriginal people in North America live in a "fourth world" – sharing the experience of colonization with the third world, but different as Aboriginal peoples, a minority in their own homeland, governed by the laws and institutions of settler governments.[5]

The World Council on Indigenous Peoples held conferences in Sweden in 1977 and Australia in 1981, in both instances with financial support from the host country. The conference in Australia focused on a draft treaty on indigenous rights. During this period, the government of Norway started including Indigenous peoples as part of its foreign policy and began making annual grants to the World Council. Norway, Sweden and the Netherlands became strong supporters of international indigenous rights. With their support, and the leadership of the World Council of Indigenous Peoples, the United Nations was persuaded to establish a Working Group on Indigenous Populations in 1982. That group began working on a declaration on indigenous rights in 1985, and in 1993 it produced an historic document in the field of human rights – the Draft Declaration on the Rights of Indigenous Peoples. This draft declaration is now before the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, as indigenous rights are becoming fully articulated, with the participation of Aboriginal peoples, in international law. Aboriginal people in Canada should share some pride in this accomplishment.[6]

In Canada, Aboriginal peoples were becoming more aware of their legal rights during this period. The landmark Supreme Court decision in the *Calder* case in 1973 led the federal government to establish its first land claims policy, directed to settling the comprehensive claims of Aboriginal groups that retained the right to traditional use and occupancy of their lands. The policy was only moderately successful, in part because of the federal government's policy of extinguishment, which insisted that Aboriginal people agree to have their land and resource rights in the claims area extinguished in exchange for a land claims settlement, and in part because of the federal policy of separating negotiations on land from those on self-government, a topic that emerged high on the list of priorities for Aboriginal people by the late 1970s. Only two claims were negotiated successfully during the decade – the James Bay and Northern Quebec Agreement (1975) and the Northeastern Quebec Agreement (1978).

Support for Aboriginal peoples and their struggles grew, as organizations such as the Canadian Association for the Support of Native People and Project North (composed of Christian churches) sprang up to press governments to address Aboriginal rights to land and self-determination. This led to significant federal government funding for Aboriginal peoples' organizations. Resource megaprojects, such as the James Bay hydro project, the Mackenzie valley pipeline and the northern Manitoba hydro project, forced confrontations between Aboriginal people on one side and governments and resource companies on the other.

It was at this point that Aboriginal peoples and the constitution began to be linked. Aboriginal people had tried many avenues to effect change, with little result. They turned now to a new approach – constitutional reform. Their opportunity came in 1978, in the aftermath of the election of the first Parti québécois government in Quebec, when the federal government introduced its proposals for constitutional reform, entitled "A Time for Action", and the companion draft legislation, Bill C-60. They contained, for the first time, a draft charter of rights and freedoms, including a provision shielding certain Aboriginal rights from the general application of the individual rights clauses in the charter. Although discussions were held with Aboriginal peoples' organizations during the Trudeau government, it was during the short-lived Progressive Conservative government of Joe Clark that Aboriginal leaders first met formally with federal and provincial ministers to discuss issues to be placed on the first ministers' constitutional agenda, including a commitment to invite national Aboriginal leaders to attend those negotiating sessions on topics that directly affected their people.

With the victory of the federalist forces in the Quebec referendum on sovereignty-association in 1980, and the failure of a first ministers conference on the constitution later that year, the federal government decided to act unilaterally to patriate and amend the constitution. The federal proposal, revised in January 1981 following discussions with Aboriginal leaders, contained three sections that were to address the concerns of Aboriginal peoples. These provisions, variants of which were ultimately proclaimed in the *Constitution Act, 1982*, are described in detail in the next few pages. Eight provincial governments opposed the federal government's initiative, as did many Aboriginal people. National Aboriginal organizations, especially the National Indian Brotherhood (now the Assembly of First Nations) lobbied the federal government separately at first, but then began to co-ordinate their efforts.

Many chiefs of First Nations travelled to England to oppose patriation, concerned that it might damage their special relationship with the Crown (represented by the Queen), and several launched lawsuits in the British courts. Treaty nations, particularly those in western Canada, wanted the British and Canadian governments to recognize their treaty obligations before patriation took place. In his judgement on the suits launched by Aboriginal peoples' organizations,

Lord Denning of the English Court of Appeal stated that Canada had an obligation to fulfil the treaties made in the name of the Crown of Great Britain. The provinces that opposed the federal government's initiative launched a number of court actions in Canada, and the 1981 Supreme Court decision on a constitutional reference resulted in one more first ministers conference being convened.

That conference, held in November 1981, produced a draft constitutional amendment supported by the federal government and nine provinces; Quebec withheld its consent. The accord had a glaring omission – Aboriginal rights had disappeared.[7] As the white paper had done more than a decade earlier, the draft constitutional amendment of 1981 galvanized Aboriginal people, who joined together from coast-to-coast in an effort to have Aboriginal rights reinserted into the package. This time, they had an additional ally – Canadian women who were concerned that the sexual equality rights of the charter might be impaired by the legislative override provision, better known as the 'notwithstanding' clause. The two communities of interest agreed to support each other, and after a massive and intensive lobbying effort, they won their battles. The notwithstanding clause would not apply to section 28, the sexual equality provision of the charter, and Aboriginal and treaty rights were reinstated, albeit with the word 'existing' placed before them. This was a reflection of both the lack of knowledge of Aboriginal matters among federal and provincial governments and the legal uncertainty in the field at that time.

The *Constitution Act, 1982* was proclaimed on 17 April 1982. Section 25 guaranteed that the *Canadian Charter of Rights and Freedoms* would not

> ...abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including:
>
> (a) any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and
> (b) any rights or freedoms that may be acquired by the aboriginal peoples of Canada by way of land claims settlement.

Section 35 stated that

> (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.
> (2) In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada.

Section 37 provided for a single constitutional conference (which was held in 1983) to identify and define those Aboriginal rights and for the participation of Aboriginal peoples' leaders and territorial government delegates.

That conference was televised live, and the hopes and dreams of Aboriginal peoples were brought to viewers across the country. Aboriginal cultures were given a place of respect through the use of Aboriginal traditions – opening

prayers, drumming, the passing of the great pipe of peace. For the first time since Confederation, Aboriginal leaders sat at the table as equals with first ministers.

The conference was noteworthy in another regard. It resulted in the first – and thus far the only – amendment to the constitution under the general amending formula. The 1983 Proclamation Amending the Constitution of Canada included the following provisions:

> 1. Paragraph 25(b) of the Constitution Act, 1982 is repealed and the following substituted therefore:
>
> "(b) any rights or freedoms that now exist by way of land claims agreements or may be so acquired."
>
> 2. Section 35 of the Constitution Act, 1982 is amended by adding thereto the following subsections:
>
> "(3) For greater certainty, in subsection (1) "treaty rights" includes rights that now exist by way of land claims agreements or may be so acquired."
>
> "(4) Notwithstanding any other provision of the Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons."

In addition, the proclamation made a commitment that a formal first ministers conference would be held, with the participation of Aboriginal peoples, before any constitutional amendments that directly affected Aboriginal people. A new section 37 resulted in three more first ministers conferences on Aboriginal constitutional matters, in 1984, 1985 and 1987.

The constitutional process helped bring together Aboriginal people from across Canada. National Aboriginal leaders met to discuss the strategy of constitutional negotiations in a series of Aboriginal summits, a remarkable feat given the diverse nature of and former divisions among Aboriginal people in Canada.

The focus of these three conferences was Aboriginal self-government, a direction that was also advocated in the 1983 report of the House of Commons Special Committee on Indian Self-Government, known as the Penner report.[8]

Over time, all Aboriginal parties to the negotiations came to support the position that the right of self-government was inherent, rather than delegated or constitutionally created.

During this period, the legal position of Aboriginal peoples in the Canadian state was becoming clearer. The Supreme Court decision in the *Guerin* case had the effect of placing the onus on the federal and provincial governments to demonstrate that the legal rights of Aboriginal people had been extinguished with their consent. The decision in the *Simon* case affirmed that treaties predating Confederation, such as those between eastern Aboriginal nations and the French and British Crowns, were protected by the present constitution.

The three constitutional conferences held between 1984 and 1987 produced no amendments. The lack of consensus turned on the question of whether the right of Aboriginal self-government flowed from inherent and unextinguished Aboriginal sovereignty, and from treaty and Aboriginal rights, or whether it was to be delegated from federal and provincial governments. Had Aboriginal peoples been willing to accept delegated authority for their governments, a constitutional amendment would have been theirs.

The close of the 1987 conference was one of high drama, as national Aboriginal leaders summarized their sense of disappointment. Their declarations, excerpted in the accompanying box, spoke eloquently of missed opportunities and fears for the future. Their predictions of a stormy future relationship between Aboriginal peoples and Canadian governments was realized, unfortunately, in the armed confrontation at Kanesatake three years later.

In 1986, the federal and provincial governments began working on what was to become the Quebec round of constitutional discussions, in an effort to complete the work left undone at the 1981 conference when Quebec did not agree (and still has not agreed) to patriation and the *Constitution Act, 1982*. Less than a month after the failure of the first ministers conferences on Aboriginal constitutional matters, the Meech Lake Accord was signed. Because governments considered this the Quebec round, the accord was silent on Aboriginal and treaty rights. Most Aboriginal people reacted in disbelief. How could first ministers accept the vague notion of Quebec as a distinct society while suggesting that the concept of inherent Aboriginal self-government was too unclear? Aboriginal groups did not oppose recognition of Quebec as a distinct society, so long as Aboriginal peoples were similarly acknowledged through recognition of the inherent right of Aboriginal self-government. The reaction of Louis ('Smokey') Bruyere, president of the Native Council of Canada (now the Congress of Aboriginal Peoples), was typical:

> Aboriginal peoples' view on the *Accord* can be summarized in four words: It abandons aboriginal peoples. It does this by being silent about the uniqueness and distinctiveness of aboriginal peoples.[9]

Aboriginal people had substantive concerns about the Meech Lake Accord, including provisions that would have made it more difficult for the territories to become provinces and that ignored the role of territorial governments in recommending appointments to the Supreme Court and the Senate. The accord was also silent on the role of Aboriginal peoples in future constitutional conferences on the constitution.[10] The constitutional amending formula gave Parliament and the provincial legislatures up to three years to pass the Meech Lake constitutional resolution.

As the clock ticked, it became more obvious that the Meech Lake agreement was in trouble. The Meech Lake Accord served to galvanize Aboriginal

There was enormous pressure on us. I am sure most of us here on this side of the table, and undoubtedly on the other side of the table, had a couple of sleepless nights to some extent, wondering whether or not we should go with this.... But on this side, and me personally, the question I was debating was: If we agree to an amendment, what does it do to the rights we now have and how does it enhance our situation.

What happens to our treaties? What happens to our bilateral relationship? What happens to what our forefathers have always told us they did, that they did not surrender. They did not surrender their sovereignty.

Georges Erasmus
Assembly of First Nations

We came to set a foundation for the liberation and justice for our people. That is the purpose of coming to this conference.... We are not disappointed in the stand that we took – the right to land, the right to self-government, and the right to self-determination. Those causes are right in any society.

By leaving here today without an agreement, we have signed a blank cheque for those who want to oppress us and hold the racism against us as they have in the past.

Jim Sinclair
Métis National Council

people, to strengthen their resolve as the white paper and patriation debates had done earlier. Aboriginal people were fighting court battles and engaging in acts of civil disobedience. Canadians came to know the Gitksan and Wet'suwet'en, who were fighting in court to affirm ownership and jurisdiction over their traditional lands; the Haida, who were standing in the path of logging machines about to clear-cut their ancient forests; the Lubicon, who were blocking access to their lands by resource developers; and the Innu, who invaded a NATO air base to protest low-level fighter jet training over their lands and its impact on their hunting economy.[11] By 1990, many non-Aboriginal people also opposed the agreement. Owing to changes in government, the legislatures of New Brunswick and Manitoba had not yet approved the constitutional resolution, and the government of Newfoundland and Labrador had rescinded its original approval.

In early June of 1990 the federal government convened a constitutional conference in a last-ditch effort to save the Meech Lake agreement. After a marathon 10-day meeting behind closed doors, an agreement was reached. Among other items, it included a provision for the resumption of constitutional

The people of the future, when they look at what we have turned down here today, will say we were right rather than wrong.

We are not going away. The aboriginal people of this country are always going to be here as strong and if not, stronger, than they are now.

Louis 'Smokey' Bruyere
Native Council of Canada

But there are going to be consequences to a continual 'non-success' of these gatherings, and there are grave consequences possible if we continue to meet and not come up with any resolution of these issues.

We continue to have a hope that this great country, which we embrace as our own, will have the sense and the decency – not that I doubt its decency – to someday, in my generation, recognize our rights, and complete the circle of Confederation, because if it is not going to be done in my generation, I have my son standing behind me who will take up the fight with your sons and your sons' sons.

Zebedee Nungak
Inuit Committee on National Issues

Source: First Ministers Conference on Aboriginal Constitutional Matters, 26-27 March 1987, unverified and unofficial verbatim transcript (Ottawa: Canadian Intergovernmental Conference Document 800-23/004), pp. 220-241.

conferences on Aboriginal rights. The remaining three provinces agreed to introduce the resolution in their respective legislatures.

Progress was slow, and Aboriginal leaders, through MLA Elijah Harper of Manitoba, were opposing the package. In a final effort to win their support, the prime minister wrote to Phil Fontaine of the Assembly of Manitoba Chiefs, outlining a six-point program for addressing Aboriginal concerns.

1. a Federal-Provincial process to set the agenda for the First Ministers Conference on Aboriginal Matters; and the acceleration of the holding of the first Conference;
2. a commitment by the Government of Canada to full constitutional recognition of the Aboriginal peoples as a fundamental characteristic of Canada;
3. the participation of representatives of the Aboriginal peoples of Canada at any future first ministers conference held to discuss the "recognition clause";

4. an invitation to participate in all first ministers conferences where matters being discussed directly affect Aboriginal peoples;
5. the joint definition of treaty rights;
6. the establishment of a Royal Commission on Native Affairs.[12]

It would turn out to be too little, too late. Aboriginal people were determined to stop a process they saw as unfair and that ignored their fundamental rights.

Coincidentally, during the conference, the Supreme Court delivered its decision on the *Sparrow* case, confirming that the regulation of an Aboriginal right to fish did not result in its extinguishment. Moreover, the burden of justifying legislation that has some negative effect on Aboriginal rights rested with the federal and provincial governments.

What appeared to be a sure thing in 1987 was defeated in part because of opposition from Aboriginal peoples. In a decade, Aboriginal leaders and organizations had become powerful players in the rough and tumble of constitutional politics and negotiations.

The Death of Meech

An all-party agreement to pass the accord in the Manitoba legislature included the introduction of a motion of ratification in the legislature, ten days of public hearings, a debate in the legislature, and a final vote. All of this was to be accomplished in less than two weeks, by 23 June 1990, when the three-year limit on the Meech Lake Accord expired. On June 12, Premier Filmon asked for unanimous consent from the legislature to introduce the motion without the customary two days' notice. With the encouragement of Aboriginal leaders in Manitoba, and to the surprise of the assembly, the Oji-Cree MLA for Rupertsland, Elijah Harper, denied his consent.

At first, this was thought to be a symbolic gesture, token opposition. Harper again denied consent on June 13 and 14. Support for Harper's stand, a lone Oji-Cree MLA holding an eagle feather in the Manitoba legislature, spread across the country. The rules of the Manitoba legislature enabled Harper to delay the motion for six legislative working days. Finally, on June 20, Premier Filmon was able to introduce the motion. By this time, Elijah Harper had become a hero for Canadians who opposed the Meech Lake Accord. The public hearings had yet to be held, but debate on the motion began. It was too late to save the accord. The Manitoba legislature adjourned without bringing the motion to a vote. Nor was a vote taken in the Newfoundland legislature. Meech was dead.

The defeat of the Meech Lake Accord was received very poorly in Quebec. Meech was meant to heal the wounds created by the patriation and amendment of the constitution in 1982 over Quebec's objection. For years, Québécois were seeking recognition of their historical rights – the reality of *deux nations* – in the constitution. Aboriginal peoples were unable to have their nation-to-nation relationship recognized, and Quebec was unable to have its distinctiveness as a society recognized. The fate of these two Canadian dilemmas had become inexorably intertwined. An attempt to address both would wait for the Canada round, still two years away.

When the Mohawk people of Kanesatake set up road blocks in the spring, no one thought much about it. It was just one more in a long line of similar actions that had ended peacefully once a point had been made or serious negotiations had begun on the issues at hand. The situation changed when the stand-off began, on 11 July 1990.[13]

At issue was legal title to 400 square kilometres of land that formed the original seigneury of the Lake of Two Mountains – a land dispute that has been outstanding since the 1700s. The land was granted to the Seminary of St. Sulpice in 1717 and enlarged through a second grant in 1735. The second grant was to provide a greater land base for the original inhabitants. In both cases, the land turned over to the Sulpicians was to be used for the benefit of the Indian residents, on condition that title to the land would revert to the Crown if they vacated the mission.

The Mohawk people always considered these lands to be theirs – before, during and after these grants. When the Mohawk were considering the proposed move to Kanesatake from Montreal in 1714, Chief Aghneetha said,

> Again our Priest, in conjunction with the clergy of the Seminary of Montreal, told us we should remove once more with our families, for it was no longer proper that any Indians should live on this Island [of Montreal]. If we would consent to go and settle at the Lake of Two Mountains we should have a large tract of land for which we should have a Deed from the King of France as our property, to be vested in us and our heirs forever, and that we should not be molested again in our habitations.[14]

In February 1721, when the first Mohawk families moved to their new home at Kanesatake, they did so in the belief that the land belonged to them as originally promised. In remarking upon the Two Dog wampum belt made for the occasion, Chief Aghneetha said,

> Although it was very inconvenient to us to be quitting our homes and small clearing, yet the desire of having a fixed property of our own induced us to comply, and we accordingly set out, and took possession of the land, and as was the custom of our forefathers we immediately

> set about making a [wampum] Belt...by which our children would see that the lands were to be theirs forever, and as was customary with our ancestors we placed the figure of a dog at each end of the Belt to guard our Property and to give notice when an enemy approached.[15]

The Mohawk people were not involved in any way in the negotiations that took place among the Sulpicians, representatives of New France, and the regent for the seven-year-old king of France, Louis XV, and it appears that they had no knowledge that the concession would be granted forever to the Seminary, on condition that as soon as the Indian residents left the land, it would revert to the king. Hence the origin of the present dispute.

Title to the former Jesuit seigneury of Sault St. Louis had been awarded to the Mohawk of Kahnawake by the courts in 1762. However, title to the Seminary of St. Sulpice was recognized by the British as belonging to the Sulpicians in 1841, an act that has been challenged by Mohawk people since that time. Over the years the Sulpicians gradually sold off the land, including the pine forest of the Commons – the site of the stand-off at Kanesatake. Finally, in 1945, the federal government moved to purchase from the Sulpicians the lands still occupied by the Mohawk, which amounted to about one per cent of the original Two Mountains seigneury.

Part of the pine forest of the Commons was acquired by the municipality of Oka in 1959 to construct a nine-hole golf course, again ignoring Mohawk claims. In 1990, plans were afoot to clear more of the pines in order to expand the Oka Golf Club to 18 holes.

During all this time, the Mohawk of Kanesatake had resisted this invasion and had sought to resolve the matter – in petitions to Lord Elgin in 1848 and 1851, in petitions to the governor general of Canada in 1868 and 1870, through a visit to see the king of England in 1909, in a claim brought before the Privy Council in London in 1912, in their comprehensive land claim of 1975, and in their specific land claim of 1977. The federal government has taken the 1912 decision of the judicial committee of the privy council as the final word on the matter. The court held that the Mohawk people had a right to occupy and use the land until the Sulpicians exercised their unfettered right to sell it.

The Kanesatake land dispute had been festering for more than 200 years by this time. The Oka summer of 1990 – which began when the Oka municipal council called in the Sûreté du Québec (the provincial police force) and escalated to an armed confrontation between the Canadian army and Mohawk warriors – was foreshadowed by violent confrontations as early as 1877. All avenues for resolving the land question had been closed. After simmering for so long, the situation exploded. The sight of Canada's army pitted against its own citizens received attention around the world. Canada's reputation on the international stage, one of promoting human rights and the well-being of Aboriginal peoples, was badly tarnished. The land dispute has yet to be resolved, although

negotiations are continuing, and the federal government has purchased small parcels of land to be returned to the Mohawk people.

Shortly after the demise of the Meech Lake Accord and the Oka crisis, the government of Quebec created the Bélanger-Campeau commission on Quebec's constitutional future,[16] and the federal government established the Spicer commission on national unity. Among other things, the Spicer commission found that Canadians as a whole want to come to terms with the aspirations of Aboriginal peoples. There was broad consensus and support for Aboriginal self-government and land claims and acknowledgement of the contributions of Aboriginal peoples to Canada. As the report of the Spicer commission stated forcefully,

> There is an anger, a rage, building in aboriginal communities that will not tolerate much longer the historic paternalism, the bureaucratic evasion and the widespread lack of respect for their concerns. Failure to deal promptly with the needs and aspirations of aboriginal peoples will breed strife that could polarize opinion and make solutions more difficult to achieve. ...
>
> We join with the great majority of Canadians to demand prompt, fair settlement of the territorial and treaty claims of First Nations people, to secure their linguistic, cultural and spiritual needs in harmony with their environment.
>
> We join with the Canadian people in their support for native self-government and believe that First Nations people should be actively involved in the definition and implementation of this concept.[17]

In response to such events as Kanesatake, the failure of the Meech Lake and section 37 processes, the Spicer commission, and the government of Canada's failure to resolve the growing rift in relations between Aboriginal peoples and the Canadian state, the federal government created this Royal Commission on 26 August 1991. With a wide mandate and a mix of Aboriginal and non-Aboriginal commissioners, it was charged with finding ways to rebuild the relationship between Aboriginal and non-Aboriginal people in Canada. Four years of consultation, study and deliberation would be required.

Constitutional discussions also began anew that autumn, this time with the full participation of Aboriginal peoples. A joint parliamentary committee (Beaudoin-Dobbie) was established to review the federal government's proposals and published in a booklet entitled *Shaping Canada's Future Together*. In addition to the public hearings held by this committee, a series of five public forums was held to discuss the federal government's proposals. Also, a sixth forum on Aboriginal issues, chaired by Joe Ghiz, former premier of Prince Edward Island, was added at the insistence of Aboriginal people. Also, most provincial and territorial governments held public hearings. Funds were provided for national Aboriginal organizations to consult their people. The criticism of lack of public

consultation that damaged the Meech Lake process would not apply to what was called the Canada round of constitutional debate – a round meant to address the concerns of all governments and Aboriginal peoples.

The constitutional conferences of 1992, with the full participation of national Aboriginal leaders, resulted in the Charlottetown Accord. The accord included many provisions related to Aboriginal people, but the most important was one that recognized the inherent right of Aboriginal self-government. All governments – federal, provincial and territorial – agreed to include this right in the constitution, an idea some had rejected just five years earlier.[18] The Charlottetown Accord was put before the people of Canada in a national referendum on 26 October 1992 and defeated. Although this doomed the constitutional amendments relating to Aboriginal peoples, the fact that the federal, provincial and territorial governments accepted that the right of Aboriginal self-government is inherent – and not delegated from other governments or created by the constitution – is a recognition that cannot be readily or easily withdrawn.

There may be an opportunity to return to this matter in 1997, when a first ministers constitutional conference must be convened to review the procedures for amending the Constitution of Canada.[19] It would seem highly appropriate, given the precedent of recent constitutional reform efforts, that representatives of Aboriginal peoples would be invited to this conference. It would also provide an opportunity explicitly to affirm an inherent right of Aboriginal self-government in the constitution.

Within a span of 25 years, Aboriginal peoples and their rights have emerged from the shadows, to the sidelines, to occupy centre stage. While government policies, attempts at legislative reform, and efforts at constitutional change have failed, Aboriginal people have gathered strength, developed national and international political networks, and forced their way into the debate on the future of our country. It is hard to imagine that Aboriginal proposals for the future of Canada, including constitutional reform, can be ignored when discussions about the basic values of our country resume.

2. The Role of the Courts

In the period between the onset of the civilizing and assimilation policies, described in earlier chapters, and the present era, we have seen how Aboriginal people were treated as wards of the Canadian state and were subjected to various oppressive, unfair laws and policies. The clear goal of these policies and practices was to eradicate Aboriginal peoples as distinct peoples within Canada.

Although they did not cease to assert their distinctiveness in the face of Canadian Aboriginal policy during this period, Aboriginal peoples had little incentive or opportunity to go to court to vindicate their Aboriginal and treaty

rights. There were many reasons for this, including the fact that some Aboriginal peoples – holding steadfastly to their original nation status – often refused to admit that non-Aboriginal courts had any jurisdiction over them. In other cases, Aboriginal peoples simply had no confidence that Canadian courts would be willing to recognize their rights or to enforce them against the federal or provincial governments.

During this earlier period of Canadian history, it will be recalled, the doctrine of parliamentary supremacy was accepted by legislators and judges without question. This was also the period when Canadian courts were in the grip of a positivist philosophy of the law, as a result of which their focus was less on whether legislative measures were 'just' than on whether they were 'legal' in the narrower sense.[20] Moreover, unlike today, there was no bill of rights or charter of rights and freedoms against which to assess federal or provincial legislation. Thus, measures such as the oppressive provisions in the *Indian Act* or the manner in which the Métis land grants were administered under the *Manitoba Act* would have been difficult for Aboriginal people or others to attack.

Even where Aboriginal people might have wanted to go to court, many obstacles were put in their way. For example, after 1880 the *Indian Act* required federal government approval for Indian people to have access to their own band funds. This made it difficult for bands to organize, since they would require the approval of the Indian agent to get access to sufficient funds to travel and meet among themselves. There is considerable evidence of the extent to which Indian affairs officials used their control over band funds deliberately to impede Indian people from meeting for these purposes.[21]

In addition, as described later in Chapter 9, between 1927 and 1951 it was actually an offence under the *Indian Act* to solicit funds to advance Indian claims of any kind without official permission. Moreover, it was hazardous in other ways to attempt to organize or to bring legal proceedings against the federal government. This was certainly the experience of F.O. Loft, who was defamed by the deputy superintendent general of Indian affairs, repeatedly investigated by the RCMP at the instigation of Indian affairs officials, and even threatened with enfranchisement because he proposed to bring a legal action to test the constitutionality of provincial game laws in light of treaty hunting, fishing and trapping guarantees.[22]

With the notable exception of leaders like Loft, most Aboriginal people during the historical period we have characterized as 'displacement' were poor, largely uneducated and unsophisticated in the ways of the non-Aboriginal society around them. They tended to rely on the structures and processes of the Indian affairs department, in the case of Indian people, on the RCMP and missionary societies in the case of Inuit, or on provincial institutions in the case of Métis people. Many Aboriginal people, in addition, still lived in physically remote or northern locations, far from the institutions of mainstream Canadian

society. To this physical remoteness must be added the fact that Canadian institutions were, and indeed often remain, culturally and spiritually remote. In light of these factors, the courts did not play a positive role in the struggle of Aboriginal peoples to assert and defend their rights until relatively recently.

The vast majority of non-Aboriginal Canadians who have given any thought to the matter would probably acknowledge that Canada's Aboriginal peoples have not been accorded their proper place in the life and constitution of this country. Some might say that this is attributable to deep-seated racism; others might say, more charitably, that it is the result of the paternalistic, colonial attitude we have described, the goal of which was to indoctrinate the original inhabitants of Canada into the ways of non-Aboriginal society and make them over in the image of the newcomers. Whatever the explanation, it seems clear, as a judge of the British Columbia Supreme Court has acknowledged, that we "cannot recount with much pride the treatment accorded to the native people of this country."[23]

There is yet another reason why the courts have played a relatively limited role until recently in the articulation of a balanced approach to Aboriginal and treaty rights within the Canadian federation. The common law of England – the law administered in Canadian courts in all provinces except Quebec – was wholly unable to comprehend the view that Canada's First Peoples had of the world and of their unique place in it. The inability of Canadian courts to recognize or to reflect Aboriginal concepts, of course, owes a great deal to the difference in culture and perspectives between Aboriginal and non-Aboriginal people (see Chapters 3, 4 and 15). In retrospect, it is clear that English and French legal concepts are not universal; they spring from and reflect the distinctive cultures and traditions of Great Britain and France. Although these concepts have undergone considerable expansion and refinement since they were transplanted to North America,[24] the fact remains that for many generations, Canadian judges and government officials were simply unable to accommodate the concepts of Aboriginal or treaty rights in the legal framework with which they were familiar.

Even today, the courts have difficulty reconciling Aboriginal concepts with Euro-Canadian legal concepts. Thus, as discussed later in this chapter, they have been forced in recent years to describe the legal aspects of the overall relationship between Aboriginal peoples and mainstream Canadian society as being *sui generis*. This Latin term means that the matter in question is in a category of its own and that it is unwise to draw too close analogies with similar matters in other areas of the law. In this way, since the early 1980s courts have tried to be sensitive to the uniqueness of the legal concepts that have emerged as a result of the evolution of the relationship between Aboriginal peoples and non-Aboriginal society without undermining the existing legal framework of the Canadian federation.

However, the courts have not always been so sensitive to the uniqueness of the Aboriginal perspective and the need to accommodate it within the Canadian legal framework. For example, the early efforts of Canadian courts and the judicial committee of the privy council in England (to which decisions of the Supreme Court of Canada could be appealed until 1952[25]) to fit the unique relationship of Aboriginal peoples to their land into the common law concept of property resulted in a distortion of the traditional approach of Aboriginal peoples to their lands. Aboriginal people do not use terms in their own languages that connote 'ownership'; they describe themselves rather as 'stewards' of their traditional territories, with a responsibility to the Creator to care for them and every living thing on them. They tend to focus on the respectful use of lands and resources rather than dominion over them. George Manuel has described the spiritual relationship between Aboriginal peoples and the land as follows:

> Wherever I have travelled in the Aboriginal World, there has been a common attachment to the land.
>
> This is not the land that can be speculated, bought, sold, mortgaged, claimed by one state, surrendered or counter-claimed by another....
>
> The land from which our culture springs is like the water and the air, one and indivisible. The land is our Mother Earth. The animals who grow on that land are our spiritual brothers. We are a part of that Creation that the Mother Earth brought forth....
>
> Although there are as wide variations between different Indian cultures as between different European cultures, it seems to me that all of our structures and values have developed out of a spiritual relationship with the land on which we have lived.[26]

Unfortunately, Canadian courts were unable or unwilling to incorporate the perspective of Aboriginal peoples within existing British and Canadian land law. Thus, they simply adopted the 'discovery doctrine' discussed in earlier chapters, asserting that legal title and ultimate 'ownership' of Aboriginal lands in North America either became vested in the Crown at the moment of discovery by British explorers, or passed from the 'discovering' French king to the British Crown upon France's 1763 cession of its North American possessions to Great Britain. Under the discovery concept the newcomers thus became the 'owners' in terms of their own legal framework. The original Aboriginal inhabitants who had been living on the land from time immemorial were found to have no real property interest in the land at all; rather, they had a mere 'personal' and 'usufructuary' right that constituted a burden on the Crown's otherwise absolute title.

This was the language used, for example, in the leading early case on Aboriginal title. Thus, in 1888 in *St. Catherine's Milling and Lumber Company* v. *The Queen*[27] the new dominion of Canada and the province of Ontario brought to the Judicial Committee of the Privy Council their dispute about

which of them was the true owner in Canadian law of lands ceded to the Crown by the Ojibwa Nation from the Treaty 3 area in Ontario. Although the Crown in right of Canada[28] had taken the surrender from the Ojibwa in 1873, the province contested the right of the dominion government to grant a timber licence to the St. Catharines Milling and Lumber Company. The province argued that the dominion government had no such right because, upon the land surrender by the Ojibwa, the underlying legal title was 'cleared' of the burden of whatever land title the Indian people had and reverted to the ultimate owner – the Crown in right of the Province.[29] The Judicial Committee agreed with the province, awarding ownership of the ceded lands to it and agreeing that the Aboriginal interest in those lands had ceased to exist upon surrender.

Speaking for the judicial committee, Lord Watson characterized the legal nature of the Aboriginal interest in their own lands as "a personal and usufructuary right, dependent upon the good will of the Sovereign." Moreover, Lord Watson attributed the Indian interest solely to the provisions of the *Royal Proclamation of 1763*, equating it with a grant from the Crown rather than as flowing from the use and occupation of the lands from time immemorial. The Ojibwa signatories of Treaty 3 were not represented in these proceedings and therefore never had a chance to present to the lower courts or to the Privy Council their views on the nature of their relationship to their own lands.

Earlier judicial analysis of the nature of Aboriginal title in the United States had taken a more positive turn, however. Chief Justice Marshall of the Supreme Court of the United States had earlier held, in *Johnson* v. *M'Intosh* and *Worcester* v. *State of Georgia*, that Aboriginal title existed quite apart from the Royal Proclamation. It was a legal right, based on Indian peoples' first occupation of the land, and did not derive from any Crown grant:

> They [the Aboriginal inhabitants] were admitted to be the rightful occupants of the soil, with a legal as well as just claim to retain possession of it, and to use it according to their own discretion...[30]

Chief Justice Marshall went on to say that, in fact, the discovery doctrine by which European nations claimed Aboriginal lands as their own did not defeat the rights of the Aboriginal peoples already in possession of them, because discovery merely "gave the exclusive right to purchase, but did not found that right on a denial of the right of the possessor to sell."[31] In the United States, the more liberal approach of the Supreme Court initially gave considerable scope for Aboriginal and treaty rights to evolve in American law. Inevitably, this led to considerable litigation during the nineteenth century and to the many landmark court decisions that sketched out the contours of Indian law in that country relatively early in its history.

In Canada, however, it was a different story. The judgement in *St. Catherine's Milling* seemed to close off important avenues for Aboriginal peoples

to contest Crown claims to their lands or regulations controlling their traditional hunting, fishing and trapping activities. The lack of legal avenues for action, coupled with the restrictive measures discussed earlier in this chapter, led to a long period during which the courts were seldom called upon to deal with important questions of Aboriginal and treaty rights. Referring to this long period of judicial inactivity, the Supreme Court of Canada summed up this time as one when Aboriginal rights "were virtually ignored":

> For many years the rights of the Indians to their Aboriginal lands – certainly as legal rights – were virtually ignored. The leading cases defining Indian rights in the early part of the century were directed at claims supported by the Royal Proclamation or other legal instruments, and even these cases were essentially concerned with settling legislative jurisdiction or the rights of commercial enterprises. For fifty years after the publication of Clement's *The Law of the Canadian Constitution* (3rd ed. 1916), there was a virtual absence of discussion of any kind of Indian rights to land even in academic literature. By the late 1960s, aboriginal claims were not even recognized by the federal government as having any legal status. Thus the *Statement of the Government of Canada on Indian Policy* (1969), although well meaning, contained the assertion (at p. 11) that "aboriginal claims to land...are so general and undefined that it is not realistic to think of them as specific claims capable of remedy except through a policy and program that will end injustice to the Indians as members of the Canadian community". In the same general period, the James Bay development by Quebec Hydro was originally initiated without regard to the rights of the Indians who lived there, even though these were expressly protected by a constitutional instrument...[32]

The process of developing the modern legal framework for the articulation of Aboriginal rights began in 1965, when the Supreme Court upheld the treaty hunting rights of Indian people on Vancouver Island against provincial hunting regulations in *R.* v. *White and Bob*,[33] affirming the majority decision of the Court of Appeal. The discussion of Aboriginal rights in the British Columbia Court of Appeal decision is significant, especially the judgement of Mr. Justice Norris.[34] For the first time in recent Canadian judicial history, he considered the overall effect of the *Royal Proclamation of 1763* on modern Crown/Aboriginal relations. Unlike the decision of the Privy Council in *St. Catherine's Milling*, Mr. Justice Norris held that the Royal Proclamation was declaratory of Aboriginal rights – it did not create them. Thus, he accepted that the Vancouver Island treaties confirmed Aboriginal rights and did not grant them. The effect of his bold judgement was to reintroduce into judicial discourse the whole question of Aboriginal rights and the modern legal effect of treaties.

When the *Calder*[35] case came before the Supreme Court of Canada a few years later, the *St. Catherine's Milling* decision was still the law in Canada: First Nations had Aboriginal title to their lands solely by virtue of the Royal Proclamation, not on the basis of their use and occupation of their own lands from time immemorial. The Nisga'a people of northwestern British Columbia wanted that changed and brought an action for a declaration that their Aboriginal title to their ancient homelands had never been extinguished.[36] Mr. Justice Hall, speaking for three members of the Supreme Court of Canada, held that the Nisga'a had an existing Aboriginal title based on their original use and occupancy. He relied on Chief Justice Marshall's decision in *Johnson*. Speaking for the other three members of the court, Mr. Justice Judson held that, whatever title the Nisga'a may once have had, it had since been extinguished. He did not, however, reject the concept of Aboriginal title based on original use and occupation. Indeed he stated the very opposite:

> Although I think that it is clear that Indian title in British Columbia cannot owe its origin to the Proclamation of 1763, the fact is that when the settlers came, the Indians were there, organized in societies and occupying the land as their forefathers had done for centuries. This is what Indian title means and it does not help one in the solution of this problem to call it a "personal or usufructuary right". What they are asserting in this action is that they had a right to continue to live on their own lands as their forefathers had lived and that this right has never been lawfully extinguished. There can be no question that this right was "dependent on the will of the Sovereign".[37]

The *Calder* decision is significant, therefore, for its strong support of the Nisga'a proposition that Indian title in British Columbia was occupancy-based, not derived from the Royal Proclamation. Some months later the Quebec Superior Court ordered a halt to the James Bay hydroelectric project on similar grounds, namely, that Cree and Inuit Aboriginal title had not been extinguished by the Crown in right of Quebec.[38] The injunction was later lifted by the Quebec Court of Appeal, and the Supreme Court of Canada refused leave to appeal the matter further. By then, however, all sides had determined that a negotiated solution was better than continued litigation. The result was the James Bay and Northern Quebec Agreement of 1975.

Although several Canadian courts had an opportunity subsequently to elaborate on the nature and scope of occupancy-based Aboriginal title, few took advantage of the opportunity. In the *Baker Lake*[39] case, however, Mr. Justice Mahoney of the Federal Court of Canada Trial Division held, following *Calder*, that Inuit of the Baker Lake area of the Northwest Territories had an occupancy-based Aboriginal title to the Baker Lake area and that it was recognized by the

common law although subject to being abridged by competent legislation. He set out the elements that must be established as follows:

1. the claimants and their ancestors were members of an organized society;
2. the organized society occupied the territory over which they assert Aboriginal title;
3. the occupation was to the exclusion of other organized societies; and
4. the occupation was an established fact at the time sovereignty was asserted by England.

Justice Mahoney found that all these requirements were met by the Inuit of Baker Lake. The only remaining question, therefore, was whether their Aboriginal title had been extinguished, either by the transfer of the lands to the Hudson's Bay Company or by the subsequent admission of Rupert's Land into Canada. He found that neither had the effect of extinguishing the Inuit's Aboriginal title, since no clear and plain intention to extinguish Aboriginal rights had been shown on the part of the Crown. The Federal Court judgement was not appealed. This case is important because it indicated clearly that Aboriginal title can co-exist with settlement or development by non-Aboriginal people.

In the *Guerin* case in 1985, the Supreme Court found that the federal government was in a fiduciary relationship with Indian bands and was therefore responsible for the proper management of surrendered reserve lands. The band in question was awarded $10 million in damages as a result of federal mismanagement of lands surrendered for a Vancouver golf course.[40] Although analogous to the private law of commercial fiduciaries, the Court characterized the fiduciary relationship between the Crown and Aboriginal people as being *sui generis* and as having the capacity to evolve as the overall relationship between Aboriginal peoples and Canadian society itself evolved.

Importantly, the Court took the opportunity to review the early cases on Aboriginal title, confirming that, by recognizing that the Royal Proclamation was not the sole source of Aboriginal title, the *Calder* decision had effectively overturned the Privy Council decision in *St. Catherine's Milling*. The Court held that Indian title is an independent legal right that, although recognized by the *Royal Proclamation of 1763*, in fact predates it. The Court went on to discuss the nature of Aboriginal title, examining the various cases and the language they had used to describe it. Was Aboriginal title merely a personal and usufructuary right, or was it an actual beneficial interest in the land itself? In short, was it something that could be dealt with by governments at their pleasure, as the *St. Catherine's Milling* decision had suggested, or was it a real property interest with more serious legal consequences, as some of the later cases had suggested?

Mr. Justice Dickson found an element of truth in both characterizations. He rejected the view that Indian title was simply a personal right, stating instead

that it too was *sui generis,* a unique interest in the land that could not be described adequately in terms of English land law. It was personal in the sense that it could not be transferred by Indian people to anyone else. But it was a unique interest in the land because, when surrendered to the Crown, the Crown was not free to do with the land what it liked. Rather, the Crown was under a fiduciary obligation to deal with it for the benefit of the Indians who had surrendered it.

The legal community had hardly begun to digest the ramifications of this case when the Supreme Court decided *Simon,*[41] a treaty rights case based on a peace and friendship treaty[42] of 1752 between the British Crown and the Mi'kmaq Nation. In an earlier case a Nova Scotia county court had held the same 1752 treaty to be legally meaningless, basing this on a distinction between a "civilized nation" and "uncivilized people or savages".[43] As in the earlier decision in *White and Bob,* however, the Supreme Court upheld the treaty right against provincial hunting regulations. Significantly, the Supreme Court affirmed the principle that treaties were to be interpreted as Indian people themselves would have understood them and that ambiguous terms were to be construed in their favour.[44] Moreover, the Court also emphasized the inappropriateness of drawing too close an analogy between Indian treaties and treaties in international law, stating that an Indian treaty is "an agreement *sui generis* which is neither created nor terminated according to the rules of international law."[45]

Referring to the disparaging way the earlier Nova Scotia county court decision had characterized Indian societies, the Supreme Court also took the occasion to speak directly to the legal community about the judicial attitude toward Aboriginal rights it was fostering:

> It should be noted that the language used...reflects the biases and prejudices of another era in our history. Such language is no longer acceptable in Canadian law and indeed is inconsistent with a growing sensitivity to native rights in Canada.[46]

Another important issue dealt with in *Simon* was the question of who may claim the benefit of treaty rights under Canadian law. Did a treaty beneficiary have to prove lineal descent from a treaty signatory, or could a beneficiary be a successor in interest? This would include, for instance, someone not necessarily related to the original signing party but who through marriage or adoption became a successor to that party's interest. The Court held that, although descent was the basic rule, evidence of descent other than lineal descent from a treaty signatory might be acceptable, for otherwise it would be too difficult to prove:

> The evidence alone, in my view, is sufficient to prove the appellant's connection to the tribe originally covered by the Treaty. True, this evidence is not conclusive proof that the appellant is a direct descendant of the Micmac Indians covered by the treaty of 1752. It must, however, be sufficient, for otherwise no Micmac Indian would be able to

> establish descendancy. The Micmacs did not keep written records. Micmac traditions are largely oral in nature. To impose an impossible burden of proof would, in effect, render nugatory any right to hunt that a present-day Shubenacadie Micmac Indian would otherwise be entitled to invoke based on this Treaty.[47]

In short order the Supreme Court followed up on treaty issues in the 1990 *Sioui* case.[48] At issue was a document that the federal government argued was a mere safe conduct pass issued by British authorities to members of the Wendat (Huron) Nation in 1760. This case goes farther than *Simon*, expanding the definition of what is considered a treaty in Canadian law. Moreover, it cited the Marshall decision in *Worcester* v. *Georgia* to the effect that treaties between European nations and Indian tribes were akin to international agreements, concluding that it was "good policy to maintain relations with them very close to those maintained between sovereign nations" and that "the Indian nations were regarded in their relations with the European nations which occupied North America as independent nations."[49] Despite its accent on the international character of certain aspects of Indian treaties, the Court was nonetheless careful not to draw too close an analogy with the international sphere, emphasizing "[t]he *sui generis* situation in which the Indians were placed" in the context of their relations with the competing European powers.[50]

The immediate issue in *Sioui* was whether the Indian people of the Lorrette reserve were entitled to practise certain ancestral religious rites in Jacques Cartier Park. These rites involved cutting down trees and making fires, contrary to regulations under the Quebec *Parks Act*. The 1760 British treaty with the Wendat, often referred to as the Murray Treaty, protected the free exercise of their customs and religion by the Wendat, and it was acknowledged that the Wendat were well settled at Lorrette and making regular use of the territory covered by the park long before 1760. The Crown argued, however, that the rights of the Wendat had to be exercised in accordance with the province's legislation and regulations designed to protect the park and other users of it. The Supreme Court of Canada disagreed, finding in the treaty itself an intention by the Crown and the Wendat that Wendat rights to exercise their customs be reconciled with the needs of the settler society, represented by the Crown, to expand. Thus, confronted with the conflicting interests of the Crown and the Wendat today, the Court preferred to balance their interests as follows:

> Protecting the exercise of the customs in all parts of the territory frequented when it is not incompatible with its occupancy is in my opinion the most reasonable way of reconciling the competing interests.[51]

The Court found that exercise of the rights of the Wendat was not incompatible with the rights of the Crown. The convictions of the Wendat of Lorrette were accordingly set aside.[52]

In *Sparrow*,[53] a member of the Musqueam Band in British Columbia was charged under the federal *Fisheries Act* with fishing with a drift net longer than that permitted by the terms of his band's food fishing licence. He was fishing in a part of the Fraser River where his ancestors had fished from time immemorial. The Supreme Court of Canada affirmed what it had said in *Guerin*, namely that Indian title is more than a personal and usufructuary right – it is *sui generis* – and that the federal government has a responsibility to act in a fiduciary capacity with respect to Aboriginal peoples. The Court pointed out that the relationship between the government and Aboriginal peoples is "trust-like, rather than adversarial, and contemporary recognition and affirmation of aboriginal rights must be defined in light of this historic relationship."[54]

Accordingly, whenever the federal government is exercising its powers under section 91(24) of the *Constitution Act, 1867*, these powers have to be read after 1982 together with section 35(1) of the *Constitution Act, 1982*. The federal power, the Court said, must be reconciled with the federal duty, and the best way to achieve that reconciliation is to require that government justify any regulations that infringe Aboriginal rights.[55] It must never be forgotten, the Court reminded Canadians, that "the honour of the Crown is at stake in dealings with aboriginal peoples."[56]

In the result, the Supreme Court held that the mere fact that federal fisheries legislation and provincial regulations had controlled the fishing rights of the Musqueam people of British Columbia for many years was not in itself sufficient to extinguish their Aboriginal fishing rights under the constitution. Thus, Aboriginal fishing rights continued, subject to regulation in accordance with the justification standard set out in the case. This was the first case in which the Supreme Court of Canada had an opportunity to consider the effect of section 35 of the *Constitution Act, 1982* on federal and provincial legislative and regulatory powers under the *Constitution Act, 1867*.

So, after a long painful process it seemed to Aboriginal peoples that the Canadian courts had finally recognized Aboriginal title based on long-standing use and occupation, even though they had also affirmed that the Crown had underlying title to Indian lands by virtue of its so-called 'discovery' of North America. Moreover, by reaffirming the importance of treaties and the contemporary legal significance of Aboriginal and treaty rights, cases such as those just discussed also seemed to hold out a real promise that the federal government could no longer infringe their Aboriginal rights at will but had to establish that its laws or regulations were compatible with its fiduciary obligations to Aboriginal peoples and could be justified in the context of the Aboriginal rights at stake.

It must have come as a tremendous shock, then, in terms of both the substance of the decision and the strong language used, when Chief Justice McEachern of the Supreme Court of British Columbia rejected outright the claim of the Gitksan and Wet'suwet'en to Aboriginal rights over their traditional

lands in northern British Columbia in a 1991 case, *Delgamuukw* v. *British Columbia*. The hereditary chiefs had brought an action against the province of British Columbia alleging that from time immemorial they and their ancestors had occupied and possessed approximately 22,000 square miles of northwestern British Columbia. As a result, they claimed unextinguished Aboriginal title to their own territory and the right to govern it by Aboriginal laws. They also claimed damages for the loss of all lands and resources in the area transferred to third parties since the establishment of the colony.

An unfortunate aspect of this case was the language used by Chief Justice McEachern to describe Gitksan and Wet'suwet'en life and social organization before contact. The use of terminology reminiscent of the language deplored by the Supreme Court of Canada in the *Simon* case continues to arouse anger and indignation among Aboriginal people and fuels the distrust of the Canadian justice system often voiced by Aboriginal people across Canada.[57]

After reviewing a number of authorities, including those discussed in this chapter, Chief Justice McEachern concluded that in *St. Catherine's Milling* the Judicial Committee of the Privy Council "got it right when it described the aboriginal interest as a personal right rather than a proprietary one".[58] He also found that whatever rights the Aboriginal people had before the colonization of British Columbia were extinguished by the act of Parliament passed in 1858 empowering the Queen to appoint a governor of the new colony and make provision for its laws and administration. He held further that in 1871, when the colony was united with Canada, all legislative jurisdiction was divided between Canada and the province, and no room was left for any Aboriginal jurisdiction or sovereignty. The Aboriginal peoples' only surviving right, the Chief Justice concluded, was to use unoccupied Crown land for their traditional pursuits of hunting and fishing for sustenance purposes, subject to the general law and until such time as the land was required for a purpose incompatible with the existence of such a right.

This was a major set-back for the Gitksan and Wet'suwet'en, and an appeal was launched immediately. The British Columbia Court of Appeal split on the various issues raised at trial, with a majority of three judges generally upholding the trial decision and dismissing the appeal.[59] Two judges dissented on a number of grounds and would have allowed the appeal.[60] In all, four separate judgements were issued by the Court of Appeal. Although a further appeal was filed with the Supreme Court of Canada, the parties have requested that it be withdrawn pending negotiations to resolve the many outstanding issues raised at trial and on appeal. Those negotiations are continuing.

In addition to the courts, Aboriginal people have also looked to the international community for legal and political support. Since the end of the Second World War the community of nations has become increasingly anxious to develop standards of conduct in the field of human rights to which all nations should subscribe. This concern was manifested in an ever-increasing number of

conventions, declarations and covenants. There is no doubt that human rights considerations have now become a major concern of the world community legally, morally and politically.

Can Canada possibly stand up against a worldwide movement to restore recognition and respect for Indigenous peoples, their distinctive cultures and historical traditions? Chief Solomon Sanderson has said,

> By our own efforts, over the last decade, we have successfully re-asserted our sovereignty as Indian Nations in our own homelands and have begun to re-establish our international personality in the courts and political assemblies of the world.
>
> But there is much work to be done. While we have been trussed up and gagged in Canada for the better part of this century, the international community of nations has been re-structured and a body of international law, which is not yet sensitive to our Indian concepts of nationhood, has come into use. In our enforced absence from world forums, nobody spoke for us and nobody contradicted Canada's definition of us as an insignificant and disappearing ethnic minority.
>
> In the thirty-five years since the Second World War, Britain and the other European powers dismantled their colonial empires and, with the United States, sought a new world order. The integrity of every nation, however poor or small, would be protected by universal observance of international law based on common respect for fundamental human rights, including the right to self-determination.[61]

Aboriginal people in Canada are well aware of the importance of international forums for advancing their rights. It was under the International Covenant on Civil and Political Rights, which guarantees among other things the right of all peoples to self-determination, that Sandra Lovelace took her case against Canada to the United Nations. A Maliseet woman who had lost her status by marrying a non-Indian in 1970, Lovelace was no longer allowed to live on her reserve. She argued that she was thereby prevented from practising her culture and language and that this was a violation of Article 27 of the Covenant, which states that

> In those states in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

The United Nations Human Rights Committee agreed with Sandra Lovelace that she had been denied her rights under Article 27, because the only place where she could fully exercise these rights was on her reserve.[62] While the committee could not, of course, force Canada to change its law, the public

condemnation voiced in the decision was a tremendous embarrassment to Canada which had long prided itself on being a champion of international human rights. Canada responded in 1985 with Bill C-31, amendments to the status and membership provisions of the *Indian Act* discussed in detail later in this volume.[63]

It is the hope of Indigenous peoples everywhere, including Aboriginal people in Canada, that international pressure will force countries with Aboriginal populations to assure their cultural survival and recognize their right to have their own land and their own systems of government. Can Canadian courts and Canadian governments now, at this late date in our history, change gears and help in achieving this world-wide objective? There is reason for optimism. The courts have come a long way from *St. Catherine's Milling* to *Guerin* and *Sparrow*. Aboriginal and treaty rights are now protected in the constitution, and federal, provincial, and territorial governments have accepted the view that the inherent right of Aboriginal peoples to govern themselves may well be one of those entrenched Aboriginal rights.

We now have an unprecedented opportunity to learn from the mistakes of the past and to set out, both as governments and as peoples, in totally new directions. If Canada has a meaningful role to play on the world stage (and we would like to think that it has) then it must first set its domestic house in order and devise, with the full participation of the federal government, the provinces and the Aboriginal peoples, a national policy of reconciliation and regeneration of which we can all be proud.

3. The Inuit Circumpolar Conference: The Emergence of Internationalism

As Aboriginal organizations in Canada have become stronger and more numerous in the decades since the Second World War, they have devoted considerable attention to the situation of Indigenous peoples in other parts of the world and to influencing the activities of established international organizations, especially the United Nations and its affiliated organizations and committees. With the establishment of the Inuit Circumpolar Conference, however, a new international organization was formed, one in which Inuit from Canada have played a leading role.

The Inuit Circumpolar Conference (ICC) is the established international non-governmental organization of the world's Inuit. Its creation and history relate directly to pressures exerted on the circumpolar regions of the world by southern cultures, principally those committed to finding and exploiting the rich resources of Arctic regions. The ICC is known in virtually every household across the circumpolar north, from Alaska, across the great breadth of the Canadian Arctic, encompassing one-third of the country's land mass, in all of Greenland's coastal communities, and throughout the vast Arctic regions of the Russian north.

While estimates of the exact number are difficult to establish, it is believed there are approximately 115,000 to 128,000 Inuit living in the circumpolar regions of Canada, Alaska, Greenland and Russia.[64] It is a small population that, by most conventional international standards, would be considered insignificant. Nevertheless, Inuit of the world take tremendous pride in the fact that they have been able to survive culturally and spiritually and to prosper in the harsh Arctic climate. In this context, Inuit have always seen themselves as one people. Their legends and stories, both ancient and modern, speak of family and relatives in the far-off places. The establishment of a modern, permanent international organization to reflect their concerns and aspirations as well as protect their environment, culture and basic human rights, was a matter of doing what they had done many times in the past to ensure their survival. It meant adapting to the new forces, circumstances and conditions now facing them, but doing so in a manner consistent with traditions and aspirations that go back thousands of years.

Among these new and intrusive forces were some of the most powerful and influential organizations and institutions of modern society: churches, governments, the military and multinational oil and gas companies. Governments have for decades followed policies of resource development, exploitation, assimilation and colonization. In the 1960s and early 1970s, these policies intensified, driven by the interests of the multinational oil companies and the possibility of petroleum wealth that some thought might be comparable in scale to that available in the Middle East.

In Alaska, Canada and Greenland at almost the same time, an enormous transformation was taking place. Young Aboriginal leaders began not only questioning but even resisting the change. More than that, they asserted Aboriginal ownership and rights over their lands and were insisting on land claims settlements and recognition of their rights to their land and resources, renewable and non-renewable. They found that although governments wanted to dismiss or even ignore their claims, there was growing support in the wider public for equality and justice for Aboriginal peoples.

By November 1973, the Inuit struggle for recognition of their Aboriginal rights was being waged in Canada, Greenland and Alaska. In other regions of Canada and Alaska, First Nations were pressing similar claims. In Norway, Sweden and Finland, the Sami people were also asserting their rights and meeting similar resistance.

Under these circumstances, it was natural for the Aboriginal peoples to look internationally for a common front, and the first important meeting, the Arctic Peoples Conference, took place in Copenhagen in November 1973.

The message emerging from the meeting was clear. Across the circumpolar world, Aboriginal peoples were involved in fighting the policies of governments that had imposed laws and borders without agreement or consultation.

The fact that they lived in the most remote northern regions did not mean that they had to remain in isolation.

What also began to emerge was recognition by Inuit that they must unite as a people. Over the past one or two centuries, although they had never been conquered, they had been divided by colonizing European empires and nations. The circumpolar linkages of language and culture remained, but with the pressures of large-scale development and the loss of land and identity, their ability to establish their own priorities was becoming increasingly compromised.

The founding meeting of the ICC took place in Barrow, Alaska, in the summer of 1977, under the inspirational leadership of the mayor of the North Slope Borough of Alaska, Eben Hobson. The location was significant. The North Slope Borough's 88,000-square-mile region was part of the overall Alaskan Native Claims Agreement (ANCA), negotiated in the face of the oil discovery at Prudhoe Bay and the ensuing trans-Alaska oil pipeline. Hobson saw the enormous political power of the multinational oil companies working in the region. He also knew the poverty and lack of services available to his own people, and he used the compensation money and authority from the land claim settlement to create a strong regional government. Hobson also recognized that the powerful oil companies could try to lower environmental standards on both sides of the U.S./Canada border in the Beaufort Sea and that strong organization was required to counter the threat.

The atmosphere at the Barrow meeting was electric. Inuit were gathering from as far away as Greenland and the most remote and isolated regions of Canada. Inuit from the Soviet Union were invited, but the Iron Curtain could not yet be penetrated. Still, there was a sense of celebration reminiscent of the ancient and traditional Inuit gatherings, along with the drama and excitement of history being made as a new future unfolded. Basic decisions arising from the conference included the recognition that continuing co-operation and organization would be required if Inuit were to protect their culture, their way of life and the environment. It was also agreed that an official charter for the ICC should be established, based on principles of equality, friendship and respect.

When the ICC reconvened its general assembly in 1980, this time in Greenland, the charter was approved, recognizing Inuit as an Indigenous people with a unique ancestry, culture and homeland. It stated that their lands transcended political boundaries and that the huge resources of these lands and waters were essential to the future development of Inuit. The charter's preamble set the tone and direction for the organization. It called for Inuit involvement at all levels of international policy making. Work started immediately to gain access to the United Nations as a registered non-governmental organization (NGO), a goal that was achieved in 1984 when the ICC obtained NGO status with the Economic and Social Council of the United Nations.

For the past decade, the ICC has played a major role in the United Nations Working Group on Indigenous Peoples while at the same time making a vital contribution to drafting the United Nations Declaration on the Rights of Indigenous Peoples. Concern about human rights issues also resulted in ICC participation in revisions to the International Labour Organisation's Convention No. 169 on the Rights of Indigenous Peoples and Tribal Populations.

In its short history, three priorities have predominated in the work of the ICC. The first of these, emphasized in the charter, is the importance of the environment: "International and national policies and practices should give due consideration to the protection of the arctic and sub arctic environment and to the preservation and evolution of Inuit culture and societies."[65]

The centrepiece for the principle of environmental stewardship was the Inuit Regional Conservation Strategy, presented by the ICC executive council to the ICC general assembly in Sisimuit, Greenland, in 1989. Building on detailed field work by Inuit across the Arctic, it was both an environmental protection strategy and a sound sustainable development strategy. It made clear the importance of all Arctic wildlife, including marine mammals, in contributing to the subsistence food that Inuit require daily. The creation of this strategy greatly influenced the eight Arctic governments in the establishment of a Circumpolar Arctic Environmental Protection Strategy. The ICC and other international Aboriginal organizations are full participants in this international initiative aimed at protecting the Arctic environment.

The ICC also contributed to the United Nations Earth Summit in Rio de Janeiro, Brazil, in June 1992. Along with other Aboriginal peoples, the ICC submission called not only for international agreements and treaties on sustainable development, but also for greater use of the knowledge base and cultural values of the world's Aboriginal peoples in the protection and preservation of the earth's limited resources.

From its founding meeting, the ICC's second principal objective has been to achieve greater political control over the daily lives of Inuit. The charter sets out the clear objective "that our right to self-determination must be confirmed, and Inuit participation in policies and activities affecting our homeland assured". Progress across the circumpolar region on this question has been remarkable.

Within the ICC fold, Greenland has achieved the greatest measure of self-government. In 1979, Inuit of Greenland achieved home rule within the Danish Democratic Kingdom. Over a phased period, responsibility for government services, departments and institutions (with the exception of justice, defence and foreign affairs) have been transferred to the home rule government, and because of it, a strong confident Inuit society has re-emerged.

In Alaska, various efforts have been made to establish workable local or regional self- government models, but most have met with difficulties. In 1983, the ICC began an examination of the issue, appointing a former judge of the

British Columbia Supreme Court, Thomas Berger, to conduct a review of the implications of the Alaskan Land Claims Settlement. Berger's report, published as a book called *Village Journey*, made a major contribution to policy development on indigenous self-government issues.

In Canada, negotiations since the early 1970s had led to comprehensive land claims agreements being negotiated in Arctic Quebec, the western Arctic, and Nunavut, with the exception of Labrador. The principle of negotiating self-government within the Canadian federation in the regions where land claims agreements have been signed is becoming accepted, although the level of actual progress varies from region to region. Many of the agreements that have been negotiated are based on the principles of self-government contained in the ICC Arctic policy document (discussed below), and all provide for a large measure of power and control over Inuit-owned land and resources.

The Nunavut agreement, to take the most recent example, is one of the most comprehensive land agreements signed in Canada and sets aside some 134,390 square miles of land and 580 million dollars in compensation for lands that have been surrendered.[66] To Inuit of the region, however, perhaps more important than the land or the money is the provision in the agreement to negotiate and to establish the new territory of Nunavut, which will have its own government to serve a region where Inuit now make up more than 80 per cent of the population.

A third important objective in the ICC charter is to promote world peace "in furtherance of our spirit of co-operation with the international community". In this regard, the ICC was confronted repeatedly with the realities of the Cold War and the increasing militarization of the Arctic regions, as exemplified by nuclear accidents resulting from military activity. There are documented cases of sunken nuclear submarines and of airplanes bearing nuclear weapons that have crashed into the ocean, all of which pose environmental threats to the Arctic Ocean and to marine life. The Chernobyl disaster resulted in the severe radioactive contamination of the environment and of the reindeer grazing lands of northern Europe and Russia, where the Sami and Russian Inuit live.

One of the major difficulties facing Inuit and the ICC is the impression held by so many, especially governments, that the Arctic is a vast empty land, where military activity and weapons testing can be carried out with minimal risk. To counter this, the ICC has made presentations in various international gatherings and through organizations and conferences, including at the United Nations, depicting Inuit as a peace-loving people caught between superpowers. A resolution passed at every ICC general assembly has called for a nuclear-free Arctic and a lessening of tensions among the world's superpowers.

To advance the principles outlined in the ICC charter, the organization has moved ahead in recent years with development of an Arctic policy. The Arctic policy is a comprehensive policy document, the result of extensive research and

negotiations among Inuit in the member countries. It covers every issue important to the future of Inuit, including the environment, the economy, self-government, and social and cultural concerns. The initial draft was approved at the ICC General Assembly in Sisimuit, Greenland, in 1989.

The structure of the ICC as an international organization has also become more clearly established. For example, the general assembly now meets every three years and includes 18 elected delegates from each member country: Canada, the United States (Alaska), Greenland and Russia. The general assemblies are like no other gathering in the circumpolar world, since they are a unique mixture of politics, international diplomacy, family reunion, and cultural and entertainment exposition. In addition to the general assembly, an elders conference – a sort of Arctic senate – is held, bringing the experience, wisdom and understanding of the elders to the issues. On the conference floor, simultaneous interpretation must be available for up to eight Inuktitut dialects.

Two further important developments in strengthening and recognizing the work of the ICC took place in the first half of the 1990s. In 1994, the government of Canada appointed an Inuk, Mary Simon, as its first Ambassador for Circumpolar Affairs – a recognition by Canada of the reality and importance of the circumpolar region.

In addition, representation from all parts of the region was achieved at the 1992 general assembly. Early meetings of the general assembly had to be held without Soviet delegates in attendance, but places were kept open for them, and negotiations continued for more than a decade to bring them to their rightful place at the table. Progress was made in 1989 in Sisimuit, when the Soviet government permitted the Soviet Inuit (or Yupik) to attend as observers. In 1992, when Inuit gathered in Inuvik, Northwest Territories, the Cold War had ended. Inuit believed they played some small part in this development, and they saw as their reward the fact that there would be a full delegation at the ICC general assembly from Chukotka, the Inuit homeland in the former Soviet Union. When the Inuit arrived from Russia, it was one of the most emotional moments in the history of the ICC. Now, at long last, the circle was complete.

4. Conclusion

As these accounts illustrate, this more recent period of negotiation and renewal has been and continues to be an uncertain time, full of change but also reversals and retrenchment. From an Aboriginal perspective, there was sharp disappointment with the 1969 white paper, but then some advantage was discovered in the court decisions. There was exclusion from the constitutional discussions of the late 1960s, '70s and early '80s, but then a hard-won success in having significant amendments passed. There was lack of agreement at high-profile conferences with federal and provincial leaders in the 1980s and again exclusion from

the process and substance of the Meech Lake Accord, but then a reversal of these patterns with respect to the Charlottetown Accord.

Throughout, there were signs of continuing differences in perspective and objectives. Aboriginal leaders pushed strongly for self-government as an inherent right, arguing that its roots lie in Aboriginal existence before contact. For much of this period, however, the federal government was not prepared to move beyond the administrative decentralization of programs and services or the granting of municipal-style governing powers to community-based governments.

Much of the constitutional discussion, too, was devoted to the wish of non-Aboriginal governments to see terms such as 'existing Aboriginal and treaty rights' and 'self-government' defined in detailed and written form. From an Aboriginal perspective, however, it was feasible only to establish agreement on a broad set of principles to govern the future relationship at the Canada-wide level. Given the respect accorded diversity and local autonomy in Aboriginal cultures, it is necessarily up to Aboriginal nations in different parts of the country to negotiate more specific arrangements themselves.

To give a final example, 'existing Aboriginal and treaty rights', from a non-Aboriginal perspective, may be limited to those already recognized and defined by institutions such as the courts, the only requirement being to enumerate and define them more precisely. From an Aboriginal perspective, the term includes many rights that have not yet been defined or recognized by non-Aboriginal society.

There has been some movement, however, especially on the part of non-Aboriginal society, toward greater understanding and recognition of Aboriginal aspirations. It no longer seems so important that Aboriginal societies follow the evolutionary path toward assimilation within non-Aboriginal society. At Charlottetown, there was recognition of Aboriginal participants as political equals at the table. There was also acceptance of the proposal that Aboriginal governments constitute one of three orders of government based on the inherent right of self-government.

In short, there was a return to at least some of the basic principles that governed the relationship at the time of early contact. Although the discussions are far from complete, there are even some limited, halting efforts in different parts of the country to move from discussion to implementation.

Looking back over the historical record, some would argue that the relationship between Aboriginal and non-Aboriginal people has been entirely negative, from the moment Europeans first set foot on North American soil. We take a different view. Notwithstanding major disruptions, the spread of disease, and conflict in the early centuries of contact, it is our conclusion that a workable relationship was established over the first three centuries of sustained contact. It was a relationship that entailed the mutual recognition of nations and their autonomy to govern their own affairs, as well as an acknowledgement at the level of official policy that Aboriginal nations had rights to the land and that proper

procedures would need to be followed to transfer those rights. It was a time when Aboriginal and non-Aboriginal peoples came together as needed to trade, to form alliances, to sign and periodically to renew treaties of peace and friendship, and to intermarry.

By the late 1700s and early 1800s, we came to a fork in the road. While Aboriginal peoples by and large wanted to continue with the terms of the original relationship, non-Aboriginal society and its governments took a different course, for reasons explained in our discussion of the third stage, displacement and assimilation, in Chapter 5. This was a course that involved incursions on Aboriginal lands, lack of respect for Aboriginal autonomy, and commitment to the idea of European superiority and the need to assimilate Aboriginal peoples to those norms, through coercive measures if necessary.

It was a period of false assumptions and abuses of political power carried out over two centuries into the present day – a period that cannot be forgotten by Aboriginal peoples but also one that cannot be allowed to continue or to be repeated. Indeed, the legacy of this time is substantial even in the present day, in the form of legislation, policies and attitudes and in the form of damaged lives.

The Commission believes it is vital that Canadians understand what happened and accept responsibility for the policies carried out in their names and at their behest over the past two centuries. To this end, the next several chapters explore in greater detail four policy directions based on false assumptions leading to abuse of power: the various Indian Acts, residential schools, community relocations, and the treatment of Aboriginal veterans. This historical legacy also inevitably takes up a substantial part of the agenda for change that we map out in subsequent volumes of our report. It is an agenda that addresses the need for a change in assumptions, principles and policy directions, which are rooted in a dynamic of colonialism that has been profoundly wrong and harmful.

We have before us an agenda of decolonizing the relationship between Aboriginal and non-Aboriginal people in Canada – an agenda that the experience in other societies demonstrates is not an easy road to follow. This historical overview has helped to clarify what needs to be changed and what not to do in the future. It has also introduced themes that will be woven through much of our analysis in later chapters and volumes: that there are profound differences in culture, world view and communication styles between Aboriginal and non-Aboriginal people; that as colonial society and governments gained ascendancy in Canada the opportunities for self-expression and authentic participation by Aboriginal people diminished; and that, to most Canadians, displacement of Aboriginal people seemed inevitable and assimilation appeared to offer the only reasonable basis of relationship.

In the past two decades Aboriginal and non-Aboriginal people in Canada have embarked on another path, albeit with faltering steps. Negotiation and renewal to establish a more just relationship have begun. But if the process is to

gather momentum and be sustained, the misconceptions of the past, particularly the distorted stereotypes of Aboriginal people and the histories of Aboriginal peoples, must give way to more authentic accounts of their origins and identities. Their perspectives on their encounters with settler society must have a place alongside colonial records. In particular, the legitimacy and authority of the oral traditions of Aboriginal people to shed light on the past and mark the way to a better future must be accorded due respect.[67]

Achieving a balance between Aboriginal and non-Aboriginal perspectives on Canadian history will require that substantial effort be devoted to recording the histories of Aboriginal nations, in all their cultural and regional diversity.

Aboriginal history is infused with story, song and drama and is rooted in particular places. It crosses the boundaries between physical and spiritual reality. It is imbedded in colonial accounts, represented visually in scrolls and petroglyphs, and etched in the memory of elders. Recording Aboriginal history will require varied methods of documentation, building on existing techniques for preparing printed text and historical atlases, and adapting evolving technologies for multi-media presentation.

The scope of the undertaking we are proposing should be Canada-wide. Its significance to Canadian identity warrants the commitment of public resources but it should not be conceived of as a project of the state. It should be firmly under the direction of Aboriginal people, mobilizing the efforts and contributions of granting agencies, academics and educational and research institutions, private donors, publishing houses, artists and, most important, Aboriginal nations and their communities.[68]

The work of recording Aboriginal histories in this way is long overdue. Some historical work has been undertaken by Aboriginal organizations and communities, but it requires cataloguing and processing to be made fully accessible to the Aboriginal and non-Aboriginal public. Aboriginal people are also acutely aware that elders and others who are fluent in Aboriginal languages and oral traditions are few in number and becoming fewer. An early start on the project and firm timelines for its completion are therefore a matter of urgency.

Recommendations

The Commission recommends that

Aboriginal History Series Project

1.7.1 The Government of Canada

(a) commit to publication of a general history of Aboriginal peoples of Canada in a series of volumes reflecting the diversity of nations, to be completed within 20 years;

(b) allocate funding to the Social Sciences and Humanities Research Council to convene a board, with a majority of Aboriginal people, interests and expertise, to plan and guide the Aboriginal History Project; and

(c) pursue partnerships with provincial and territorial governments, educational authorities, Aboriginal nations and communities, oral historians and elders, Aboriginal and non-Aboriginal scholars and educational and research institutions, private donors and publishers to ensure broad support for and wide dissemination of the series.

1.7.2

In overseeing the project, the board give due attention to

- the right of Aboriginal people to represent themselves, their cultures and their histories in ways they consider authentic;
- the diversity of Aboriginal peoples, regions and communities;
- the authority of oral histories and oral historians;
- the significance of Aboriginal languages in communicating Aboriginal knowledge and perspectives; and
- the application of current and emerging multimedia technologies to represent the physical and social contexts and the elements of speech, song and drama that are fundamental to transmission of Aboriginal history.

Notes

1. *Constitution Act, 1982*, section 35.
2. Lloyd Barber, Commissioner on Indian Claims, *A Report: Statements and Submissions* (Ottawa: Queen's Printer, 1977), p. 2.
3. Charter of the World Council of Indigenous Peoples, p. 1.
4. Peter McFarlane, *Brotherhood to Nationhood: George Manuel and the Making of the Modern Indian Movement* (Toronto: Between The Lines, 1993), p. 226.
5. See George Manuel and Michael Posluns, *The Fourth World: An Indian Reality* (Don Mills: Collier-Macmillan Canada, Ltd., 1974).
6. See Douglas Sanders, "Indigenous Peoples and Canada's Role on the International Stage", research study prepared for the Royal Commission on Aboriginal Peoples [RCAP] (1994); and Douglas Sanders, "Developing a Modern International Law on the Rights of Indigenous Peoples", research study prepared for RCAP (1994). For

information about research studies prepared for RCAP, see *A Note About Sources* at the beginning of this volume.

7. What is now section 35 of the *Constitution Act, 1982* was deleted.

8. House of Commons, Special Committee on Indian Self-Government, *Indian Self-Government in Canada, Report of the Special Committee* (Ottawa: Queen's Printer, 1983).

9. Louis Bruyere, "Aboriginal Peoples and the *Meech Lake Accord*", in *Canadian Human Rights Yearbook, 1988* (Ottawa: University of Ottawa Press, 1989), p. 51.

10. Clause 13 of the accord provided for annual first ministers conferences, beginning in 1988, on subjects such as Senate reform and fisheries.

11. See Boyce Richardson, ed., *Drumbeat: Anger and Renewal in Indian Country* (Toronto: The Assembly of First Nations and Summerhill Press, 1989).

12. Prime Minister Brian Mulroney, letter to Phil Fontaine, 18 June 1990, pp. 6-7.

13. Much of this description of the background to the Oka crisis comes from "Materials Relating to the History of the Land Dispute at Kanesatake", prepared for the Claims and Historical Research Centre, Comprehensive Claims Branch, Indian and Northern Affairs Canada (January 1991, revised November 1993); from *The Summer of 1990*, Fifth Report of the Standing Committee [of the House of Commons] on Aboriginal Affairs (May 1991); and from Geoffrey York and Loreen Pindera, *People of the Pines: The Warriors and the Legacy of Oka* (Toronto: Little, Brown & Company (Canada) Limited, 1991).

14. "Materials Relating to the History of the Land Dispute at Kanesatake" (cited in note 13), p. 8.

15. "Materials Relating to the History of the Land Dispute at Kanesatake", p. 10.

16. The commission's report led to the adoption of Bill 150, An Act respecting the process for determining the political and constitutional future of Québec, Statutes of Quebec 1991, chapter 34, as amended by An Act to amend the Act respecting the process for determining the political and constitutional future of Québec, Statutes of Quebec 1992, chapter 47, which enabled the government of Quebec to hold a referendum on the Charlottetown Accord.

17. Citizens' Forum on Canada's Future, *Report to the People and Government of Canada* (Ottawa: Supply and Services, 1991), pp. 120, 127.

18. The general amending formula requires that constitutional amendments receive support from Parliament and the legislatures of seven provinces representing at least 50 per cent of the population. This level of support was not achieved in 1987.

19. This is required by section 49, which specifies that a meeting will be convened within 15 years of the amendment procedures coming into force (which was in April 1982, when the constitution was patriated). See Volume 5, Chapter 5.

20. Positivism is concerned not so much with the content or substance of a particular rule of behaviour as with its form – for example, that a given rule is a law, as

opposed to a mere moral or ethical precept. The classical exposition of the positivist approach is that of John Austin, who described laws as having three characteristics that distinguish them from other rules. Thus, a law is (1) a command; (2) issued by a political sovereign; and (3) enforceable by the state. Under this approach, a court in Canada would simply examine a legislative enactment to ensure that it had been validly passed by Parliament or a legislature within the limits of its law-making authority as set out in the *Constitution Act, 1867*. The 'fairness' or 'justness' of the enactment would not enter into the judicial calculation. See J.P. Fitzgerald, ed., *Salmond on Jurisprudence*, twelfth edition (London: Sweet & Maxwell Limited, 1966), chapter 1, "The Nature of Law", for a discussion of the various philosophies of law, including positivism.

21. Several examples of tactics like this on the part of Indian affairs officials are given by E. Brian Titley, *A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada* (Vancouver: University of British Columbia Press, 1986), p. 102.

22. See Titley, *A Narrow Vision*, pp. 104-109, for a description of tactics used by Indian affairs officials to hinder and discredit Loft and his movement.

23. *Pasco* v. *Canadian National Railway Co.*, [1986] 1 C.N.L.R. 35 at 37, per MacDonald J. (B.C.S.C.).

24. As explained in our earlier constitutional commentary, *Partners in Confederation: Aboriginal Peoples, Self-Government, and the Constitution* (Ottawa: Supply and Services, 1993).

25. More precisely, appeals were abolished in 1933 for criminal cases and in 1949 for civil cases. Cases in process in 1949 were concluded in 1952.

26. Manuel and Posluns, *The Fourth World* (cited in note 5), pp. 6-7.

27. *St. Catherine's Milling and Lumber Company* v. *The Queen* (1888), 14 Appeal Cases 46 (JCPC).

28. After 1867, it will be recalled, the executive power of the British Crown, one and indivisible in the United Kingdom because it is a unitary state, was exercised by the governor general of Canada and the lieutenant governors of the provinces. Thus the Crown was, in effect, 'split' between the dominion and provincial governments to accommodate Canada's federal structure. See *The Liquidators of the Maritime Bank of Canada* v. *The Receiver-General of New Brunswick*, [1892] Appeal Cases 437 (JCPC), where it was held that the provincial lieutenant governor, as the representative of the sovereign, possessed all the privileges, powers and immunities and of the Crown as a function of the division of legislative powers between Canada and the provinces in the *Constitution Act, 1867*.

29. This was because of the effect of section 109 of the *Constitution Act, 1867* which, at Confederation, had vested in the province underlying title to Crown lands within the new provincial boundaries. The dominion argument was based on the exceptions to this grant contained in section 109 and on the power accorded to the new dominion in section 91(24) over "Indians, and Lands reserved for the Indians".

30. 21 U.S. (8 Wheaton) 543 at 574 (1823).

31. *Worcester* v. *Georgia* at 544.

32. *R.* v. *Sparrow*, [1990] 1 S.C.R 1075 at 1103-1104.

33. [1965] S.C.R. vi; (1966) 52 D.L.R. (2d) 481 (S.C.C.).

34. (1965), 52 W.W.R. 193. Davey, Sullivan and Norris JJA concurred in finding that the *Indian Act* provision favouring treaties over provincial laws was determinative of the issue, with Sheppard and Lord JJA dissenting. The Supreme Court of Canada affirmed the majority decision of the court of appeal.

35. *Calder* v. *Attorney-General of British Columbia*, [1973] S.C.R. 313.

36. Extinguishment is the legal term used to refer to the Crown action of putting an end to Aboriginal title or to Aboriginal rights. This is usually accomplished by treaty cessions by Aboriginal people or by legislation to this effect. Much of the dispute in modern Canadian history is over the precise effect of legislation on Aboriginal rights and title, and how one gages whether the legislation has expressed a "clear and plain" intent to extinguish. For a discussion of Canadian extinguishment policy, see Royal Commission on Aboriginal Peoples, *Treaty Making in the Spirit of Co-Existence: An Alternative to Extinguishment* (Ottawa: Supply and Services, 1995).

37. *Calder* (cited in note 35), p. 328.

38. The injunction case is reported as *Gros-Louis et al.* v. *La Société de Développement de la Baie James et al.*, [1974] Rapports de Pratique de Québec 38; the appeal is reported as *James Bay Development Corporation* v. *Kanatewat* (1973), 8 Canadian Native Law Cases 414.

39. *Baker Lake* v. *Minister of Indian Affairs and Northern Development*, [1979] 1 F.C. 487 at 557-558.

40. *Guerin* v. *The Queen*, [1984] 2 S.C.R. 335. The Court was divided on the precise nature of the obligation (fiduciary, trust or agency) and exactly when it arose in the context of the *Indian Act* land surrender transaction under consideration (before or upon actual surrender by the band). The judgement by Chief Justice Dickson (as he was by the time the judgement was rendered), on behalf of four justices, is generally accepted as the definitive statement:

> ...where by statute, agreement, or perhaps by unilateral undertaking, one party has an obligation to act for the benefit of another, and that obligation carries with it a discretionary power, the party thus empowered becomes a fiduciary. (p. 384)

41. [1985] 2 S.C.R. 387.

42. This term refers to early treaties between European nations and Indian tribes and bands that do not involve land cessions. There has always been some question in Canadian law about the precise legal effect of these documents, since they were entered into before Confederation and by their terms do not deal with land.

43. *R.* v. *Syliboy* (1929), D.L.R. 307 (N.S. County Court).

44. This principle is based on similar principles of American Indian law and was first articulated by the Supreme Court in 1983 in *Nowegijick* v. *The Queen*, [1983] 1 S.C.R. 29, in the context of an interpretation of section 87, the tax exemption provision in the *Indian Act*.

45. *Simon* (cited in note 41), p. 404.

46. *Simon*, p. 399 per Dickson C.J.

47. *Simon*, pp. 407-408.

48. [1990] 1 S.C.R. 1025.

49. *Sioui*, p. 1053.

50. *Sioui*, p. 1056.

51. *Sioui*, p. 1071.

52. A framework agreement for the establishment of a new relationship between the Huron-Wendat Nation, the government of Canada and the government of Quebec was signed on 10 August 1995. The parties agreed to undertake simultaneous negotiations concerning the application of the Murray Treaty of 1760 and the establishment of self-government for the Huron-Wendat.

53. *Sparrow* (cited in note 32).

54. *Sparrow*, p. 1108.

55. *Sparrow*, pp. 1113-1119. Section 35 rights are not absolute but can be limited under certain circumstances if the government action can be justified by means of a three-part test:
    1. Is there a valid federal legislative objective such as conservation, the prevention of harm or some other "compelling and substantial" objective?
    2. Is the honour of the Crown maintained so as to respect the fiduciary relationship and give the proper priority to the Aboriginal or treaty right?
    3. Are there other issues to be considered in maintaining the honour of the Crown, such as minimizing the infringement of the right, adequately compensating Aboriginal people in the case of expropriation, and fully consulting them before infringing the right?

    Like the categories of fiduciary to which the Court referred in *Guerin* (cited in note 40), the court said that the factors listed in point 3 were open to expansion as circumstances might warrant in the context of the overall relationship between Aboriginal peoples and Canadian society.

56. *Sparrow*, p. 1114.

57. *Delgamuukw* v. *British Columbia*, [1991] 3 W.W.R. 97 (B.C.S.C.). Chief Justice McEachern made many references to the social and political conditions of the Gitksan and Wet'suwet'en, stating that "aboriginal life in the territory was at best, nasty, brutish and short" (p. 126), that the plaintiffs' ancestors were "by historical

standards, a primitive people" (p. 141), were "hardly amenable to obedience to anything but the most rudimentary form of custom" (p. 202), had only "a rudimentary form of social organization" (p. 202), and had no institutions by which to govern their territory: "I find they more likely acted as they did because of survival instincts" (p. 373).

58. *Delgamuukw*, p. 383.

59. [1993] 5 W.W.R. 97. The three judges were Macfarlane, Taggart and Wallace.

60. Judges Lambert and Hutcheon.

61. Solomon Sanderson, "Foreword", in Delia Opekokew, *The First Nations: Indian Government in the Community of Man* (Regina: Federation of Saskatchewan Indian Nations, 1982), p. ix.

62. *Lovelace* v. *Canada*, [1981] 2 Human Rights Law Journal 158; 68 I.L.R. 17. The decision was made by the Human Rights Committee (established pursuant to the International Covenant on Civil and Political Rights). The committee held that Lovelace's automatic loss of Indian status upon marrying a non-Indian deprived her of the cultural benefits of living in an Indian community. The rationale for the *Indian Act* provision denying her the right to live in the Indian community was found not to be reasonable or necessary to preserve the identity of the tribe.

63. See our discussion of Bill C-31 in Chapter 9. As noted there and in Volume 4, Chapter 2, it is our view that Bill C-31 has not corrected the problem of sex discrimination against Sandra Lovelace and other First Nations women, but has merely postponed the effects for another generation. In addition, under the present system, Bill C-31 also poses a threat to the overall population of status Indians, because of the way the new distinctions between sections 6(1) and 6(2) of the *Indian Act* work in practice. See also Chapter 2, notes 13 and 14 and accompanying text.

64. In its 1993-94 annual report, the Inuit Tapirisat of Canada gave a figure of 115,000, while the Inuit Circumpolar Conference puts the number at 120,000. An adjustment to the number of Inuit living in Canada, based on the adjusted figures from the 1991 Aboriginal Peoples Survey, increases the ICC estimate by 8,000.

65. "Preamble", Inuit Circumpolar Conference Charter, revised and amended July 1986, Kotzebue, Alaska, p. 2.

66. This is 16.51 per cent of the land in the Nunavut Settlement Area and 18.3 per cent of the land in that portion of the Settlement Area open to selection. Tunngavik Inc. reports marginally higher percentages. See Terry Fenge, "Inuit land ownership: A note on the Nunavut agreement", *Etudes/Inuit/Studies* 17/1 (1993), pp. 147-150. The dollar amount is the value at the first quarter of 1989. For details see the "Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada" (Ottawa: 1993), article 32, "Capital Transfers", p. 319.

67. See Royal Commission on Aboriginal Peoples, "Ethical Guidelines for Research", (1992), reproduced in an appendix to Volume 5.

68. In working papers prepared for the Commission a concept and workplan for a general history of Aboriginal peoples were developed. See Ted Chamberlin and Hugh Brody, "Aboriginal History, Report to the Royal Commission on Aboriginal Peoples", research study prepared for RCAP (1993); and Ted Chamberlin, "Aboriginal History Update" (August 1993).

    The project as conceived would include a series of volumes documenting the histories of diverse Aboriginal nations, an historical atlas, and a volume on historical methods appropriate to the presentation of Aboriginal history. It would draw on insights gained in the production of the General History of Africa, sponsored by UNESCO, and from the Australian Aboriginal Arts Board, which has influenced representations of Aboriginal people in the arts and sciences and humanities in Australia.

    The preparation of histories of particular nations would be the responsibility of local groups, while the series itself would be guided by a small board responsible for maintaining momentum and coherence in the overall project. The board could be convened initially through the Social Sciences and Humanities Research Council but might later be included in the mandate of an Aboriginal institution such as the Aboriginal Peoples' International University or the Aboriginal Arts Council proposed in Volume 3.

    For additional background on approaches to Aboriginal history, see Lorraine Brooke, "An Inventory of Mapping Projects in Connection with Aboriginal Land and Resource Use in Canada", and Julie Cruikshank, "Claiming Legitimacy: Oral Tradition and Oral History", papers prepared for the RCAP history workshop (February 1993).

PART TWO

False Assumptions and a Failed Relationship

8

Introduction

The commission's examination of 500 years of relations between Indigenous peoples and newcomers in the land we have come to call Canada has been cast in four stages: separate worlds, contact and co-operation, displacement and assimilation, and negotiation and renewal. We now take a closer look at the third stage, displacement and assimilation. Our focus shifts from an historical overview to an examination of certain government actions and the consequences of the balance of power shifting decisively to non-Aboriginal people. These actions were based, as we will see, on assumptions that were false.

The following chapters focus on four areas of federal policy and action: the *Indian Act*, which was and remains the legislative centrepiece of federal policy; residential schools, through which Aboriginal children were uprooted from families and traditions with the objective of assimilation into non-Aboriginal society; the relocation of entire Aboriginal communities in the name of development or administrative efficiency; and the treatment of Aboriginal veterans who served Canada in wartime but were the victims of governmental neglect in the peace that followed.

Aboriginal people see evidence of profound injustice in many aspects of government policy. We selected these four areas for scrutiny because Aboriginal people have said they were among the most unjust policies imposed on them and that those injustices, while rooted in history, have effects that continue to this day. They were not the only policies that demonstrated false assumptions and abuse of power. The federal government's approach to the Métis people, examined in Volume 4, Chapter 5, as well as many of the social and economic policies analyzed in Volume 3, show similar characteristics.

We believe it is crucial for Canadians to understand what happened during this extended period of our history – not in some abstract or theoretical way, but

in terms of how average Canadians would feel and react had they been treated in a similar way. Canadians will then recognize the inequities perpetrated in their name and agreed to by electorates throughout the decades. The punishing effects linger today in consciousness and the daily lives of Aboriginal people.

In this part we examine the false assumptions, the ingrained views based on ignorance or prejudice, that lay behind the policies examined here. We also draw attention to the abuse of power that took place – not just periodic unfairness, but excessive and systematic political dominance, reflected in both the processes and the outcomes of governance. Each chapter tells its own story. Each should be understood on its own terms, but also in relation to the cumulative impact of the policies described. This larger pattern is most important.

In drawing out the false assumptions and abuses of power that characterized the displacement and assimilation stage of relations, we recognize that causal relationships are complex. Stereotypes are shaped by the times in which they appear. In Chapter 6 we described the shift in political, economic and social conditions that brought the period of contact and co-operation to a conclusion. It was under these conditions that the false assumptions flourished and became incorporated into the public policies of the time. The links between false assumptions and the abuse of power are equally complex. In one sense, the former are the cause and the latter the effect. Once the cycle has begun, however, cause and effect can be, and often are, interactive; abuse of power produces new ideas that are false. Both simple and complex links are evident in the discussion that follows.

1. False Assumptions

Four false assumptions are starkly revealed by the policies examined in this part:

1. The first held Aboriginal people to be inherently inferior and incapable of governing themselves.
2. The second was that treaties and other agreements were, by and large, not covenants of trust and obligation but devices of statecraft, less expensive and more acceptable than armed conflict. Treaties were seen as a form of bureaucratic memorandum of understanding, to be acknowledged formally but ignored frequently. All four areas of policy or action ran roughshod over treaty obligations.
3. The third false assumption was that wardship was appropriate for Aboriginal peoples, so that actions deemed to be for their benefit could be taken without their consent or their involvement in design or implementation.
4. The fourth was that concepts of development, whether for the individual or the community, could be defined by non-Aboriginal values alone. This assumption held whether progress was seen as Aboriginal people being civilized and assimilated or, in later times, as resource development and environmental exploitation.

The fact that many of these notions are no longer formally acknowledged does not lessen their contemporary influence. As we will see, they still significantly underpin the institutions that drive and constrain the federal Aboriginal policy process.

2. The Abuse of Power

The starting point that set the context for later abuses of power was the inherent ineffectiveness of the democratic political relationship as seen by Aboriginal peoples. There has been a profound absence of representation for Aboriginal peoples in Canadian democratic institutions. But more important, such representation, when cast in terms of conventional Canadian democracy, is itself regarded as illegitimate. Aboriginal peoples seek nation-to-nation political relations, and these cannot be achieved simply by representation in Canadian political institutions.

The evidence of a lack of representation in traditional Canadian democratic processes is not hard to find. First Nations people did not have the right to vote in federal elections until 1960, though some other Aboriginal people had the right earlier. Even after the right to vote was won, the geographic dispersal of Aboriginal people – still a small minority within federal and provincial electoral constituencies – meant that political representation and leverage have been severely limited. Since Confederation, only 13 of the approximately 11,000 seats available in the House of Commons have been occupied by Aboriginal people.

Several other factors also undermined Aboriginal peoples' exercise of political authority: the highly truncated authority Aboriginal governments exercise under the *Indian Act*; the absence until relatively recently of viable national political organizations through which their views can be represented on the national scene; limited access to national political parties; and a highly dispersed and complex bureaucracy, allowing government departments to deflect blame and postpone action.

The false assumptions, operating in the context of an ineffective political relationship – and one seen as illegitimate by Aboriginal people – contributed to abuse of power. Even in the context of the more limited political freedom of the decades in which those assumptions gained ascendancy, that abuse would never have been tolerated had it been imposed on the majority population of the day. Its expression was often more subtle than the exercise of raw power. But viewed cumulatively, what emerged was an abuse of power that was systemic and excessive.

The first attribute of the abuse of power is the raw intrusiveness of the instruments of policy used by the state in Aboriginal matters. These policy instruments did not seek only to influence or guide, as is the case in many other

areas of public policy; rather, they invaded Aboriginal peoples' lands, traditions, lives, families and homes, with a cradle-to-grave pervasiveness that other Canadians would have found utterly intolerable if applied to them. The *Indian Act* was the battering ram but, as the following chapters show, it was far from being the sole instrument of invasion.

A second attribute of the abuse of power is the unimpeded exercise of bureaucratic authority and its accompanying institutional inertia. Supposedly guided by overall ministerial direction, but often administered in punitive fashion far from public scrutiny, the departments charged with responsibility for Indian affairs often displayed unconscionable use of bureaucratic power. For Aboriginal people, no amount of recent administrative delegation can offset the effects of tens of thousands of adverse bureaucratic decisions by officials who exercised complete authority over the minutiae of their daily lives over the decades.

Moreover, the more intrusive the agencies and instruments of policy were, the harder they were to unravel and change. The exercise of unbridled authority leads inevitably to resistance to change and to a perverse inertia, which also sets in among Aboriginal people themselves. The status quo represented by the Department of Indian Affairs and Northern Development and the *Indian Act* is opposed and even detested. But in the absence of any fundamental trust that their interests will be safeguarded, many Aboriginal people express great fear of change.

3. The Four Policies in Brief

Before examining the policies in detail, we provide a brief overview of how false assumptions and abuses of power permeated the implementation of Aboriginal policy.

We begin with an account of the *Indian Act* in Chapter 9. Passed in 1876 under Parliament's constitutional authority for "Indians, and Lands reserved for the Indians," the legislation intruded massively on the lives and cultures of status Indian people. Though amended repeatedly, the act's fundamental provisions have scarcely changed. They give the state powers that range from defining how one is born or naturalized into 'Indian' status to administering the estate of an Indian person after death. Conceived under the nineteenth century's assumptions about inferiority and incapacity and an assimilationist approach to the 'Indian question', the *Indian Act* produced gross disparities in legal rights. It subjected status Indians to prohibitions and penalties that would have been ruled illegal and unconstitutional if applied to other Canadians.

This account also demonstrates how public discussion – as recent as the debates of the last decade about Aboriginal self-government – has reflected and continues to reflect the abiding prejudices of earlier eras. The *Indian Act* still holds a symbolic but powerful grip on the thinking of Canadians.

Perhaps less well appreciated is the way the *Indian Act*, because of its separation of status and non-status Indians, has influenced how national Aboriginal political organizations are structured. The legislation helped institutionalize divisions between Aboriginal political organizations. This is not to suggest that Aboriginal peoples do not have divisions and differences of their own. However, the *Indian Act* legislated key divisions and helped create Aboriginal political structures that made divide-and-conquer politics an easier game to play.

Second, we examine the residential school policy. Of all the nineteenth-century policies formulated to respond to the Indian question, none was more obviously the creature of that era's paternalistic attitudes and its stern assimilative determination than residential school education, the subject of Chapter 10. Adapted in part from models of industrial schools in the United States in the 1880s, the policy initially established boarding schools to teach the arts, crafts and industrial skills. But more important for policy makers of the day, the schools would remove Aboriginal children from their families and cultures and expose them continuously to more 'civilizing' influences. The residential schools policy was applied to the children of Aboriginal people – Indian, Inuit and Métis.

The residential schools policy was constructed on the false assumptions of its day, overlaid with Christian duty. While the civilizing assumptions reflected a state-led policy, its determined implementation rested on an entrenched church/government partnership. Thousands of Aboriginal children were removed from their homes and communities and placed in the care of strangers, whose appointed duty was, in effect, to separate them from their traditional cultures and to 'civilize' them in the ways of the dominant European, Christian society.

Residential school policy was strongly opposed by Aboriginal people. Despite the opposition, and evidence of abusive situations, nothing changed for decades. The damage to thousands of Aboriginal people, once children and now adults, continues to the present day. Bad policies always claim victims. But the effects of bad education policies seep through the decades, from child to parent to family to community, and from one generation to those that follow.

Third, the study of relocations in Chapter 11 reflects quintessentially the assumption that government had the right to act unilaterally on behalf of Aboriginal people without the opportunity for their fully informed participation. Relocations were a widespread practice. They were not rare events to be forgotten in the recesses of collective political memory. The rationales varied: the need to disperse Aboriginal people back to the land or to alleviate population or economic scarcity problems; the desire to centralize or to facilitate less expensive program delivery; and the intention to proceed with natural resource and other forms of economic development.

The rationales varied, but all were influenced by the view that Aboriginal people were unsophisticated and incapable of making their own choices. Moreover, the manner of relocating Aboriginal people – apparently without

meaningful consultation or involvement or their free and informed consent, and often at very short notice – suggests that normal democratic rights and processes simply did not apply. Aboriginal people were moved, not because they wanted to be moved, but because they were, in raw political terms, moveable.

The Commission's research shows that the effects of relocations are felt today in significant ways. Many thousands of people were moved, their economic self-sufficiency was often weakened or destroyed, and their adverse health conditions were made worse. Aboriginal political leadership and structures collapsed in the inevitable malaise, not of their own making, that followed.

The chain formed by the linked policies examined in Chapters 9, 10, and 11 must be emphasized from the outset. The *Indian Act* and its incredible intrusiveness made policies on residential schools and relocations easier to implement – indeed, perhaps almost inevitable.

Fourth, the chapter on Aboriginal veterans (Chapter 12) demonstrates the pervasiveness of the wardship approach. Many Aboriginal peoples had a history, before the nineteenth century, of military and related alliances with European nations. As we saw in Part One of this volume, these alliances entailed reciprocal duties and obligations, delineated and confirmed through spiritual as well as temporal ceremonies.

Despite subsequent ill-treatment, many Aboriginal people maintained their sense of allegiance to the Crown and volunteered for Canada's armed forces in large numbers in both world wars. Hundreds lost their lives. Although accepted as full citizens while on military duty, returning Aboriginal veterans were treated unfairly after both world wars. They were denied equivalent recognition and many of the benefits their non-Aboriginal comrades enjoyed.

4. New False Assumptions

The four false assumptions may well be officially disavowed now, but this does not end the capacity of political institutions to devise new ones.

One such modern variant, evident in the more complex politics of the last three decades and very much current today, is that Aboriginal peoples constitute an interest group, one among many in a pluralistic society. They, along with the labour movement, the agricultural lobby, or any other interest group are to be listened to respectfully, but their demands are subject to the political agenda and trade-offs of the day. They are not seen as having legitimate political authority, as being nations entitled to treatment as nations.[1]

Before the 1950s and '60s, Aboriginal people were not even dignified with the label interest group. They were treated as an object of policy paternalism and wardship. Without the vote, First Nations people could easily be dismissed as politically irrelevant. National political parties, also a key conduit of interest group demands, were hardly hospitable.

Moreover, Aboriginal people had only the beginnings of viable national political organizations. Even when they did form such organizations, governments did not consult them adequately, much less listen to them.[2] In addition, as we have seen, the very structure of some of those organizations was flawed because of *Indian Act* provisions.

The Commission's research shows that the overall policy process with respect to Aboriginal peoples has improved somewhat in the last decade.[3] However, it has been a decade of small gains in the normal (non-constitutional) policy process set against a 200-year history of losses. Moreover, if pluralism has brought a somewhat greater measure of benefit for Aboriginal people, pluralism alone cannot deliver what is being sought. Aboriginal peoples seek a recognition of their rights as peoples.

This brief overview suggests only an intimation of what Commissioners see as crucial lessons to be drawn from a sad policy history told in four parts. Some important recommendations are made in each area, either in this or subsequent volumes, but in general, these chapters are concerned with overall lessons that Canadians – not just their governments – need to make their own.

Notes

1. G. Bruce Doern, "The Politics of Slow Progress: Federal Aboriginal Policy Processes", research study prepared for the Royal Commission on Aboriginal Peoples [RCAP] (1994), chapters 2 and 6. For information about research studies prepared for RCAP, see *A Note About Sources* at the beginning of this volume.
2. Sally Weaver, *Making Canadian Indian Policy: The Hidden Agenda 1968-79* (Toronto: University of Toronto Press, 1981).
3. See Doern, "The Politics of Slow Progress" (cited in note 1), chapter 7.

9

The *Indian Act*

Most canadians know that in 1982 our written constitution was amended as part of the process of completing the evolution of Canada as a self-governing nation. As recounted in Chapter 7, one of the 1982 amendments addressed the special constitutional status of the Aboriginal peoples of Canada – which includes the Indian, Inuit and Métis peoples – by recognizing and affirming their Aboriginal and treaty rights in section 35 of the *Constitution Act, 1982*. Since then there have been several first ministers conferences with the goal of completing the constitutional renewal process by explicitly entrenching the right of Aboriginal self-government within the Canadian constitution.

In 1993 we published *Partners in Confederation*, in which we asserted that there are good reasons to believe that the Aboriginal rights referred to in section 35 include the inherent right of self-government.[1] Our conclusion was based on, among other things, the wording of the *Royal Proclamation of 1763*. As our earlier discussion showed, through that authoritative statement, the Crown offered its protection to the Aboriginal peoples as self-governing nations whose relative political autonomy and land rights it recognized.

In our view, by referring to these rights, section 35 has already entrenched them in the constitution. They need now to be implemented in an orderly and appropriate way. Many Canadians appear to agree with us. Efforts are continuing to implement the inherent right of self-government and thereby to reaffirm the special status of Aboriginal peoples within the Canadian federation.

In this context it is important to realize that the unique constitutional position of Aboriginal peoples did not originate with the 1982 constitutional amendments, important as they were. There are references throughout Canadian history to the singular place of Indian peoples, Inuit and Métis people in the collective enterprise now known as Canada. Many constitutional documents attest

to this, including, of course, the *Constitution Act, 1867* with its familiar reference to federal jurisdiction over "Indians, and Lands reserved for the Indians" in section 91(24). In 1939 the Supreme Court of Canada recognized that the term 'Indian' as used in section 91(24) also includes Inuit.[2] We are of the view that it includes the Métis people as well.[3]

The distinctive rights accorded Indian tribal nations (or First Nations, as we refer to them today) are mentioned in official documents as early as the eighteenth century. One of the most significant references occurs in the *Royal Proclamation of 1763*. Issued by King George III to confirm the special relationship between the Crown and First Nations, the Proclamation has been described by one Canadian Supreme Court judge as "the Indian Bill of Rights"[4] and by another as having legal force "analogous to the status of Magna Carta".[5] In addition to its constitutional status, this document has a powerful symbolic importance and is often cited by Aboriginal peoples in their quest to regain their relative autonomy within the Canadian federation. We discussed the nature and significance of this document in Chapter 5 of this volume and will say more about it here in the context of the *Indian Act*.

Many other constitutional documents refer to the rights of First Nations. For example, the statutes confirming the entry of Manitoba and British Columbia into Canada, the order by which Canada acquired the Hudson's Bay Company territories, federal legislation granting Ontario and Quebec additional lands in the North, and legislation giving the prairie provinces control over their resources all refer in one way or another to Indians, treaties, Indian lands and other related rights.[6] Treaties are also constitutional documents reflecting the special status of the tribal nations that signed them with the Crown. There are so many references to Indian people and Indian rights in documented Canadian history that the Pepin-Robarts Task Force on Canadian Unity acknowledged in 1979 that "native people *as a people* have enjoyed a special legal status from the time of Confederation, and, indeed, since well before Confederation."[7]

The *Indian Act* is yet another manifestation of this status. Passed originally in 1876 under Parliament's constitutional responsibility for Indians and Indian lands, it is based on Indian policies developed in the nineteenth century and has come down through the years in roughly the same form in which it was first passed. Until the 1982 amendments to the constitution, it was the single most prominent reflection of the distinctive place of Indian peoples within the Canadian federation. It too has powerful symbolic importance. In fact, when the federal government recommended in 1969 that it be repealed as part of a proposed new approach to Indian policy,[8] Indian people across Canada protested. A young Cree leader, Harold Cardinal, wrote a book that became the Indian alternative to the federal proposals:

> We do not want the Indian Act retained because it is a good piece of legislation. It isn't. It is discriminatory from start to finish. But it

> is a lever in our hands and an embarrassment to the government, as it should be. No just society and no society with even pretensions to being just can long tolerate such a piece of legislation, but we would rather continue to live in bondage under the inequitable Indian Act than surrender our sacred rights. Any time the government wants to honour its obligations to us we are more than ready to help devise new Indian legislation.[9]

Thus, and despite its symbolic importance, the distinctive place accorded Indian people by the *Indian Act* was not a privileged one. It was marked by singular disparities in legal rights, with Indian people subject to penalties and prohibitions that would have been ruled illegal and unconstitutional if they had been applied to anyone else in Canada. Moreover, and despite their direct relationship with the federal government, the majority of Indian people living on reserves could not vote in federal elections until 1960. Indian people could not manage their own reserve lands or money and were under the supervision of federally appointed Indian agents whose job it was to ensure that policies developed in Ottawa were carried out on the various reserves across Canada.

Indian people chafed within the confines of this legislative straitjacket. It regulated almost every important aspect of their daily lives, from how one acquires Indian status to how to dispose of the property of an Indian at death and much else. Many attempts have been made through the years to free Indian people from the *Indian Act* legal regime. Although usually well-intentioned, many of these efforts have been ill-conceived and badly carried out. Rarely were Indian peoples consulted on what to do to alleviate the problems posed by the *Indian Act*, and almost never were their proposals for reform taken seriously.

In many ways the history of the evolution of the *Indian Act* has been a dialogue of the deaf, marked by the often vast differences in philosophy, perspective and aspirations between Canadian policy makers and Indian people. Indian people have been consistent in calling for respect for their special constitutional status, especially in the context of the *Indian Act* and its colonial predecessors. However, Canadian officials have generally interpreted Indian proposals for reform of Indian policy as yet another indication of their need for further guidance, for even sterner measures to help them adapt to the culture and political ways of the settler society that has grown up around them.

For example, when the elective band council system was first introduced in 1869 as a way of undermining traditional governance structures, Indian nations were not easily persuaded to adopt it. Two years after passage of the legislation implementing the band council system, Deputy Superintendent Spragge is reported to have observed that Indian opposition to adopting what was clearly an alien system owed less to its cultural inappropriateness than to the fact that "the Indian mind is in general slow to accept improvements", but that "it would

be premature to conclude that the bands are averse to the elective principle, because they are backward in perceiving the privileges which it confers."[10]

Indian people have refused consistently, however, to renounce the constitutional special status that their unique place in Canadian history assures them and have resisted efforts to force them to abandon their cultures and forms of social organization to become Canadians like all others. The *Indian Act* has thus become the battleground for the differing views of Canadian officials and Indian people about their rightful place within the Canadian federation. But the battles have not been straightforward, nor have they always been overt. Much has occurred in the shadows of Canadian history, in the meeting rooms of commissions of inquiry[11] and in the halls of Parliament and the offices of federal public servants.[12] Decisions taken by bureaucrats and politicians behind closed doors, although little known in the broader Canadian society, have had a profound impact on Indian people. This impact has been experienced more often than not as oppressive and has engendered deep suspicions on the part of Indian people about the ultimate intentions of Canadian policy makers toward them.

Today the *Indian Act* is the repository of the struggle between Indian peoples and colonial and later Canadian policy makers for control of Indian peoples' destiny within Canada. The marks of that struggle can be seen in almost every one of its provisions. By examining the act, how it came about and how it continues to influence the daily experience of Indian people in Canada, much can be learned about why reform is so difficult to achieve at present. By the same token, an examination of the *Indian Act* will also show why reform or complete repeal is needed so vitally now.

It is clear that many mistakes have been made in the past. A new or renewed relationship of partnership between Aboriginal peoples and other Canadians can be achieved only through awareness of these mistakes and avoidance of the false and unwarranted assumptions that led to them. That is the purpose of this chapter.

1. The Paradox of *Indian Act* Reform

In the 1960s the Hawthorn report on Indian conditions in Canada observed that until the Second World War, "Indian reserves existed in lonely splendour as isolated federal islands surrounded by provincial territory."[13] In a real as well as a metaphorical sense, Indian communities were not part of Canada. The lonely splendour of their isolation was at once geographic, economic, political and cultural and was enforced by the special legal regime contained in the *Indian Act.* It set Indian people apart from other Canadians and, although protective of their rights, was the source of much criticism by Indian leaders and concerned Canadians alike.

In 1969, the recently elected federal government – like many other Canadians at the time – wished to eliminate the barriers that were seen increasingly as preventing Indian people from participating fully in Canada's prosperity. The government issued a white paper on Indian policy that, if implemented, would have seen the global elimination of all Indian special status, the gradual phasing out of federal responsibility for Indians and protection of reserve lands, the repeal of the *Indian Act,* and the ending of treaties. The government watchword was equality, its apparent goal "the full, free and non-discriminatory participation of the Indian people in Canadian society" on the basis "that the Indian people's role of dependence be replaced by a role of equal status".[14] Surprised by the massive and fervent opposition to this measure, the government was forced to withdraw its proposal in 1970. The *Indian Act*, largely unchanged, is still with us.[15]

Nonetheless, most still agree that progress in self-government, in economic development and in eradicating the social ills afflicting many Indian communities cannot be accomplished within the confines of the *Indian Act.* Despite being its harshest critics, however, Indian people are often extremely reluctant to see it repealed or even amended. Many refer to the rights and protections it contains as being almost sacred, even though they are accompanied by other paternalistic and constraining provisions that prevent Indian peoples assuming control of their own fortunes. This is the first and most important paradox that needs to be understood if the partnership between First Nations and other Canadians is to be renewed.

Seen in this light, the profound ambivalence of First Nations toward the *Indian Act* begins to make more sense. To shed additional light on the origins of Canada's Indian policies we must go further back into Canadian history, however. It is there that the tangled roots of the *Indian Act* and the many paradoxes it discloses can be found. The major and underlying paradox, and the key to unravelling the others, lies in the unique way Indian sovereignty has been conceptualized in Canadian legal and constitutional thinking.

2. Indian Sovereignty and the *Royal Proclamation of 1763*

Until recently, North American history has been presented as the story of the arrival of discoverers, explorers, soldiers and settlers from Europe to a new world of forest, lake and wilderness. Indian peoples have been portrayed as scattered bands of nomadic hunters and few in number. Their lands have been depicted as virtually empty – *terra nullius*, a wilderness to be settled and turned to more productive pursuits by the superior civilization of the new arrivals. In the same way, Indian people have been depicted as savage and untutored, wretched creatures in need of the civilizing influences of the new arrivals from

Europe. This unflattering, self-serving and ultimately racist view coincided with the desire of British and colonial officials to acquire Indian lands for settlement with the minimum of legal or diplomatic formalities. The view prevailed throughout the nineteenth century when the foundations for the *Indian Act* were being laid. Many Canadians may still maintain such beliefs.

We now know that this picture is simplistic and one-sided. As described in earlier chapters, Indian nations were organized into societies of varying degrees of sophistication. Many practised and taught agricultural techniques to the new arrivals and had established intricate systems of political and commercial alliances among themselves. The forests were not trackless; they were traversed by well-known trails created for trade and other social purposes well before the arrival of Europeans. Rivers and lakes served as highways and as natural boundaries between tribal nations. Many tribes were relatively large in population and had spawned smaller off-shoot tribes precisely because of population pressures. In short, there is an increasing body of evidence that Indian nations were far more subtle, sophisticated and numerous than the self-consciously 'civilized' Europeans were prepared to acknowledge.[16]

Europeans did not arrive, therefore, to an empty and untamed land. In many ways their arrival was more like an invasion and displacement of resident peoples of varying but evident cultural attainments. The arrival of the newcomers was accompanied by European diseases to which Indian people were vulnerable and that drastically reduced their populations, destroying some nations completely and weakening others immeasurably. In the face of these pressures many tribal nations broke up and were gradually absorbed by the new settler societies around them. Fearing this fate, others were forced to leave their historical homelands and to move away from the settled colonies farther into the interior, abandoning vast territories to the emerging settler society. Later, during the nineteenth and even into the twentieth century, many Canadian policy makers clung to the notion that, if Indian people were prevented from removing themselves from the cultural influences of the surrounding non-Indian society, they would eventually be absorbed piecemeal and simply disappear as distinct peoples.

As our historical review of the relationship between Aboriginal and non-Aboriginal peoples showed, from the moment of their arrival, the political and commercial manoeuvring of the various European powers drew Aboriginal nations into their conflicts, further reducing Aboriginal numbers and increasing their dependence on European trade goods and arms. Finally, after more than 200 years of trade, warfare and social interaction, the victorious British Crown attempted to stabilize relations between Indian nations and colonists. The method chosen was a public proclamation confirming the nature, extent and purpose of the unique relationship that had developed in North America between the British Empire and Indian nations.

The *Royal Proclamation of 1763* accomplished purposes already reviewed in some detail in our historical outline. Two of them are of particular significance here. First, the Proclamation drew a line separating Indian tribal lands from those forming part of the colonies. These lands were reserved for Indian peoples' exclusive use and possession. In that way the Crown hoped to remove the constant colonial pressure for lands that had pushed many tribal nations into the interior and that threatened to lead to new wars between Indian peoples and colonists.

By guaranteeing Indian lands, the Crown established itself as their protector, thereby undertaking a role that continues today. It is reflected in the reserve system, whereby separate tracts of land – whether set aside originally by the imperial Crown, colonial governments, the federal government or provincial governments[17] – continue to be reserved as Indian lands under a special legal regime that differentiates them from other lands within provincial or territorial boundaries.

A second thing the Royal Proclamation did was initiate an orderly process whereby Indian land could be purchased for settlement or development. Before that process, private individuals – land speculators and colonial officials – had often perpetrated frauds on Indian sellers and non-Indian purchasers alike. This had greatly damaged relations between Indian nations and the Crown and produced instability in commercial relations that was harmful to both Indian and colonial economic interests. In future, lands could be surrendered only on a nation-to-nation basis, from the Indian nation to the British Crown, in a public process in which the assembled Indian population would be required to consent to the transaction.

The present *Indian Act* continues to reflect the land surrender procedure first set out in the Royal Proclamation. It must be noted, however, that the federal government has failed, for reasons that will become evident later, to recognize the original "Nations and Tribes" to which the Proclamation refers and has instead substituted for them the artificial legal entities known as bands. Despite this, the land surrender provisions are the centrepiece of the entire act and the provisions most ardently defended by First Nations today.

By clearly recognizing a right to land and by mandating a formal nation-to-nation land surrender process, the Royal Proclamation did more than recognize a particular method of setting aside and purchasing land. It also recognized the autonomy of tribal nations as self-governing actors within the British imperial system in North America. Indian peoples were not mere collections of private individuals like other Crown subjects; they were distinct peoples – political units within the larger political unit that was eventually to become Canada. The early British imperial system was tripartite: it included the imperial Crown, the colonies and the Indian nations. Today, Canada is an independent state, again

represented by a tripartite system in the form of the federal government, provincial and territorial governments and Aboriginal peoples.

In 1763 it was not considered necessary to specify the precise nature of the relationship between Indian nations and the Crown. It was self-evidently one of mutual respect and mutual recognition. The Supreme Court of Canada has reviewed the nature of relations between the Crown and Indian nations during this period in Canadian history, concluding that for the British it was "good policy to maintain relations with them very close to those maintained between sovereign nations."[18]

The *Royal Proclamation of 1763* provides the first model of that early imperial tripartite relationship. It was not quite one of complete equality between sovereign nations, because by then many tribal nations had been greatly weakened and were no longer fully autonomous. By the same token, however, it was not one of subjugation, since relations in the most important areas were conducted on a nation-to-nation basis. In short, it was and remains a unique relationship that is well captured in the following passage from the Proclamation:

> And whereas it is just and reasonable, and essential to Our Interest and the Security of Our Colonies, that the several Nations or Tribes of Indians, with whom We are connected, and who live under Our Protection, should not be molested or disturbed in the Possession of such Parts of Our Dominions and Territories as, not having been ceded to, or purchased by Us, are reserved to them, or any of them, as their Hunting Grounds...
>
> ...if, at any Time, any of the said Indians should be inclined to dispose of the said Lands, the same shall be purchased only for Us, in Our Name, at some publick Meeting or Assembly of the said Indians to be held for that Purpose by the Governor or Commander in Chief of Our Colonies respectively...[19]

The paradoxical aspect of this model of relations revolves around the relationship of the Crown and tribal nations to Indian lands. The reference is to nations and tribes connected to and living under Crown protection on lands within its dominions and territories. But at the same time, the Crown cannot simply appropriate these lands; it must purchase them from the nation or tribe on a nation-to-nation basis.

This original paradox raises the dilemma of the Crown and Indian nations simultaneously having sovereign rights to the same land. Through sharing the land, they shared sovereignty in a way that was unique to the situation in North America. There were no precedents for this singular relationship. In retrospect we now recognize it as the prototype for the later federal model that emerged first in the United States and then in Canada: governments sharing the same territory, but with different or shared powers in relation to that territory.

In this relationship, Indian nations agreed to share the land with the Crown. The Crown agreed that a portion of those lands would be set aside for exclusive Indian occupation and to protect the overall relationship. In a sense, this was the original confederal bargain between them as partners. In the United States the bargain would be recast by the new republic in slightly different terms. Indian nations were not part of the United States, yet at the same time they were in a political relationship with the United States. This is the familiar 'domestic dependent nations' formula – itself a paradoxical statement – that has permitted American Indian tribes to continue, in the face of enormous centrifugal pressures, to assert their nation status up to present times.[20] In Canada, however, Crown/Indian relations took a somewhat different course.

For several generations the nation status of tribes in the British possessions was respected by imperial authorities and by the colonies. At a certain point, however, this carefully constructed and maintained model of imperial federalism began to come apart. Through a series of culturally based misunderstandings and the emergence of a radically different interpretation of the protective relationship among British and Canadian policy makers, a fundamental shift occurred that has altered the balance between the original partners in Confederation. Ethnocentric notions based on the claimed cultural superiority of the settler society prodded imperial and colonial officials to reinterpret the original bargain between the Crown and tribal nations.

More than a century of official measures aimed first at civilizing and then assimilating Indian people caused the original partnership to become completely unbalanced. This led to cultural confrontation between Canadian officials and Indian people that has evolved into political confrontation and legal challenges by Indian representatives to the assumption of political, social and cultural jurisdiction over Indian communities in Canada. The *Indian Act* reflects the imbalance in the relationship. Putting the relationship back into balance is one of the major goals of this Commission.

3. Indian Policy: Protection, Civilization and Assimilation

The early history of tripartite relations between Indian nations and the Crown in British North America during the stage of displacement can be described in terms of three phases in which first protection, then civilization, and finally assimilation were the transcendant policy goals. Although they may appear distinct from each other, in fact, these policy goals merge easily. They evolved slowly and almost imperceptibly from each other through the nineteenth century when the philosophical foundations of the *Indian Act* were being laid.

For example, the measured separation between tribal nations and the settler society implied by Crown protection of tribal lands and Indian autonomy

merged almost effortlessly for non-Indian officials into the related goal of 'civilizing' the Indians. The transition was aided by the fact that Indian people often requested or consented to official assistance in acquiring tools to adapt to the growing presence of non-Indian settlements around them. Mission schools, training in farming and trades, and instruction in Christianity were the hallmarks of this stage in the relationship. More ominously, however, new civilian Indian department officials often came to the job with attitudes marked by emerging notions of European racial and cultural superiority. They lacked the inherent respect for Indian social and political culture that had been a feature of the eighteenth century, when there was greater equality in the overall relationship between the Crown and First Nations.

For these officials, the transition to a policy of encouraging and even forcing Indian people to assimilate into colonial and later Canadian society was a short step from the civilizing policy. Often the churches and humanitarian societies – both of which called for measures to alleviate the often desperately poor conditions of Indian people and communities – assisted this transition, seeing in it the only way to save Indian peoples from what appeared at the time to be their eventual and inevitable destruction as separate entities by the social and economic forces of mainstream colonial society.

In all three phases, humanitarians, church and government officials saw themselves as supporting the original and primary policy of protection. The goal remained; only the means had changed. The measured separation desired and called for by Indian people themselves eventually came to be seen by government officials as ultimately harmful to Indian interests. To them, it simply preserved Indian people in a state of social inferiority. Indian protests against assimilative policies were interpreted as proof of their racial and cultural inferiority: they simply did not know what was good for them. The relative strength of colonial society in comparison to the increasing weakness of Indian communities was sufficient proof to Indian department officials of the inherent rightness of their perspective and ample justification for the paternalistic approach they had taken over the years.

Thus, in the years following the *Royal Proclamation of 1763*, the Crown undertaking to protect Indians and their lands from settler encroachment was an evident and paramount characteristic of the relationship between them in Upper and Lower Canada. It was somewhat different in the Maritimes, where the Mi'kmaq and Maliseet nations, former enemies of the British Crown, were not treated with the same respect by British authorities after 1763. Nonetheless, in the Maritimes, as in Upper and Lower Canada, reserves were created to further the Crown goal of protection. Indian people and their non-Aboriginal supporters were forced to petition the authorities to return to them small tracts of their own lands in the Maritimes, whereas reserves were freely offered by the British authorities elsewhere.[21]

Reserves were not new. They had been a feature of relations between the French and their Indian allies, and the practice of creating them was carried over by the British in what is now southern Ontario.[22] In this respect, the goal of maintaining a line between Indian and colonial lands was upheld. Overall responsibility for relations with Indians was lodged in the imperial Indian department, first created in 1755 as a branch of the military. But whether reserves were established or not, in all cases the clear and underlying goal of Crown/Indian relations was to secure and maintain the commercial and military alliances with tribal nations upon which the welfare of British North America still depended.

With the massive influx of settlers in the late eighteenth and early nineteenth century and the need to find additional land for settlement, the reserve policy assumed new importance. At the same time, with the establishment of peace between the United States and the British colonies, the need for Indian peoples as military allies waned. Tribal nations also became more and more impoverished as the game and furbearing animals on which they depended for sustenance and commerce disappeared. Traditional lifeways became more difficult to maintain. Many tribes and bands came to rely on the symbolic payments and gifts that accompanied formal commemorations of treaty signings and on treaty annuity payments. The result was a weakening of their relative bargaining position with the British authorities and a growing dependence upon them.

At the same time, new ideas were sweeping the British Empire. Missionaries and humanitarians, appalled at the deterioration in living conditions in areas where settlements were devastating traditional Aboriginal cultures and economies, called for action to save them. But imperial and colonial officials, imbued with notions of racial superiority, preferred new policies to assist Indian people to evolve on a European model and to become 'civilized' farmers and tradesmen. Financial pressures coincided with these trends as the colonial office in London questioned the expense of continuing to maintain Indian nations as military allies.

In the face of these pressures, the first formal inquiry into Indian conditions in Canada was undertaken by Major General H.C. Darling, military secretary to the governor general. His 1828 report became the foundation of the civilization program, outlining a formal policy based on establishing Indians in fixed locations where they could be educated, converted to Christianity and transformed into farmers.[23] The goal of this policy was to enable Indian communities to become more economically self-sufficient. This approach was influenced by an experiment by the Methodist Church with the Mississauga of the Credit River in southern Ontario. The latter had written to the lieutenant governor of Upper Canada in 1827, thanking him for his support and expressing their happiness that "flows from a settled life, industry and a steady adherence to the great commands

of the great Spirit" and their hope to "arise out of the ruins of our great fall, and become a people...like our neighbours the white people".[24]

Thus, the civilizing policy began to go forward with the establishment of additional reserves in southern Ontario, in the hope that the early success being achieved among the Mississauga would be repeated elsewhere. There was no question, however, of imposing this policy on Indian communities. Indian self-government was to be fully respected by seeking the consent of chiefs before introducing any of the proposed civilization measures. As the letter from the Mississauga indicates, at first these measures were often welcomed by Indian nations as they prepared for the future.

While this experiment was going on, another entirely different approach was being taken by the lieutenant governor of Upper Canada, Sir Francis Bond Head. After visiting every Indian community where civilizing efforts were being conducted, he concluded that Indians could not be civilized and were doomed as a race to die out over time. He proposed to relocate Indians to Manitoulin Island, where they could be protected in a traditional lifestyle until their inevitable disappearance as separate peoples. To this end he persuaded some bands to surrender their Aboriginal title to large areas of reserved lands in southern Ontario in exchange for lands on Manitoulin Island. Church groups working to convert and civilize Indians at that time were angered by his approach, since it ran counter to the liberal and philanthropic ideas then coming into vogue in Great Britain and the colonies.

Thus, in the 1830s the overlap between these policy approaches saw two distinct initiatives in operation at the same time, each favouring a different approach to protecting Indians. Darling's was to help them adjust to the demands of mainstream colonial society through measures designed to augment and eventually supplant their traditional cultures. Bond Head's was the opposite: to isolate them so they could preserve their traditional lifeways a little longer. Each one seemed to assume that, left to their own devices, Indians were inherently unable to respond to the new economic and social climate of British North America.

By the end of the decade, both experiments had failed. In the case of Darling's civilization program, Indians were not ready to abandon their traditional ways so quickly or completely. It also appears that the various church groups bickered among themselves, thereby hindering the effectiveness of the program. Bond Head's approach faltered because Indians became increasingly wary of surrendering their rights to their traditional lands. The removal policy had also aroused the opposition of philanthropic and humanitarian elements in British and colonial society, which were genuinely concerned about declining material and social conditions among Indian people.

During this period several other official inquiries were commissioned to investigate what was increasingly becoming known as the 'Indian problem'.

Each one repudiated the approach taken by Bond Head and supported the civilization policy. Only one is known to have consulted extensively with Indians regarding their views, and then only on the issue of discontinuing the system of 'presents', designed to reinforce the treaty relationship.[25] In fact, it was not until after the Second World War that any systematic effort was made to seek the views of Indian people on policy issues that affected them.

In support of the policy of protection, legislation was passed in 1839 in Upper Canada expressly declaring Indian reserves to be Crown lands and therefore off-limits to settlers.[26] By the 1840s imperial and colonial officials were impatient with what they saw as slow progress in civilizing Indians. Although imperial financial concerns were present, an element of cultural superiority and intolerance was colouring official attitudes more and more. Something similar was occurring in the United States. Alexis de Tocqueville, a French writer travelling in the United States, described the generally negative feelings and attitudes of the settlers toward Indians in terms that applied to the British colonies as well:

> With their resources and their knowledge, the Europeans have made no delay in appropriating most of the advantages the natives derived from their possession of the soil; they have settled among them, having taken over the land or bought it cheaply, and have ruined the Indians by a competition which the latter were in no position to face. Isolated within their own country, the Indians have come to form a little colony of unwelcome foreigners in the midst of a numerous and dominating people.[27]

In the United States the Indian policy was similar to that advocated by Bond Head: removal of entire tribes to more isolated locations west of the Mississippi River where they could pursue their own cultures and develop their own political institutions according to their aspirations and capacities. In Canada, yet another commission was established to study the problem. Its report would set Canadian Indian policy on an entirely different path from that taken in the United States. In most important respects, official Indian policy in Canada is still on the path set by that commission.

4. Civilization to Assimilation: Indian Policy Formulated

Established by Governor General Sir Charles Bagot, the commission reported in 1844.[28] Generally, the commissioners found that there were serious problems with squatters on Indian lands, poor records of land sales or leases, and inept official administration of band funds; that the wildlife necessary for subsistence was fast disappearing from settled areas; and that Indians generally were suffering from alcohol abuse.

To bring order to the development of Indian policy and to end the varying practices in the different colonies, centralization of control over all Indian matters was recommended. This recommendation later bore fruit, first in 1860 with the passage of the *Indian Lands Act.* It transferred authority for Indians and Indian lands to a single official of the united Province of Canada, making him chief superintendent of Indian affairs.[29] When the Province of Canada united with Nova Scotia and New Brunswick in 1867 to form the Dominion of Canada, section 91(24) of the *Constitution Act, 1867* gave legislative authority over Indians and lands reserved for the Indians to Parliament and removed it from the provincial legislatures.

To combat settler encroachments and trespassing, the Bagot Commission recommended that reserves be properly surveyed and illegal timber cutting eliminated by a timber licensing system. Indians were to be encouraged to take up farming and other trades and were to be given the training and tools required for this purpose in lieu of treaty gifts and payments. Education was considered key to the entire enterprise; thus boarding schools were recommended as a way of countering the effects on young Indians of exposure to the more traditional Indian values of their parents. Christianity was to be fostered.

The commissioners were concerned that Crown protection of Indian land was contrary to the goal of full citizenship in mainstream society. In their view, maintaining a line between Indian and colonial lands kept Indians sheltered from various aspects of colonial life such as voting (only landowners could vote at that time), property taxation, and liability to have one's property seized in the event of non-payment of debt. The Bagot Commission therefore recommended that Indians be encouraged to adopt individual ownership of plots of land under a special Indian land registry system. They were to be encouraged to buy and sell their plots of land among themselves as a way of learning more about the non-Indian land tenure system and to promote a spirit of free enterprise. However, the reserve system was not to be eliminated all at once – the transition was to be gradual, and in the meantime, no sales of Indian land to non-Indians were to be permitted.

Crown financial obligations were to be reduced by taking a census of all Indians living in Upper Canada. This would enable officials to prepare band lists. No Indian could be added to a band list without official approval, and only persons listed as band members would be entitled to treaty payments. It was recommended that the following classes of persons be ineligible to receive these payments: all persons of mixed Indian and non-Indian blood who had not been adopted by the band; all Indian women who married non-Indian men and their children; and all Indian children who had been educated in industrial schools. These recommendations were adopted in one form or another in the years after the Bagot Commission issued its report and formed the heart of the Indian status, band membership and enfranchisement provisions of the *Indian Act.*

The commissioners were also opposed in principle to the idea of a separate imperial Indian department, believing that it tended to breed dependency. However, until it could be dispensed with, it was recommended that the two branches of the existing Indian department be reunited under an official who would be located in the seat of government where broader social policy was made. This recommendation ultimately led to the creation of a more or less permanent department of government to deal exclusively with Indians and Indian lands. Today it is called the Department of Indian Affairs and Northern Development and is still located in the seat of government in the Ottawa-Hull region.

Initially, Indians were generally in favour of the Bagot Commission's proposals on education, since they still wished to co-exist with the new settler society and knew that education was the key to their children's futures. However, once the assimilationist flavour of the program became evident, opposition quickly increased. They also opposed the restrictions on eligibility to receive treaty payments. This was viewed as interference with internal band matters and as a way of ultimately reducing all payments. There was, in addition, strong resistance to the notion of individual allotment of reserve lands, as many feared – rightly – that this would lead to the loss of these lands and to the gradual destruction of the reserve land base.

Although it stopped short of endorsing forced assimilation, which would come later, there can be no question that the Bagot Commission recommended a far-reaching and ambitious program that is still in operation today. Many of the current provisions in the *Indian Act* can trace their origins to these early recommendations.

In any event, land legislation was passed shortly after, in 1850, in Upper and Lower Canada to put some of these recommendations into effect by dealing with the threat to Indian lands posed by settler encroachments.[30] It became an offence to deal directly with Indians for their lands, trespass on Indian lands was formally forbidden, and Indian lands were made exempt from taxation and seizure for debts. Similar provisions continue in the current *Indian Act* and are generally valued by Indian people, who see them as a bulwark against erosion of the reserve land base.

However, in that early legislation appears the first clear indication of the marked differences in the philosophy and perspectives of Indians and non-Indian officials. This pattern, which would be repeated throughout Canadian history right up to the present, has involved building on Indian concerns and carrying remedial measures much further than desired by Indians themselves. For example, by 1850 the presence of substantial numbers of non-Aboriginal men on Indian reserves had apparently begun to alarm some tribal and band governments. Although married to Indian women and hence part of the reserve community, these men brought with them ideas and perspectives that appeared to threaten traditional Indian culture, particularly as it affected land use. Both

1850 land protection acts defined the term 'Indian', for purposes of residency on the protected reserve land base, for the first time in Canadian history, introducing the notion of race as the determining factor. Only a person of Indian blood or someone married to a person of Indian blood would be considered an Indian.

In response to Indian concerns, that definition was narrowed in amendments to the Lower Canada legislation one year later, specifically to exclude from the definition all non-Aboriginal men married to Indian women.[31] However, non-Aboriginal women married to Indian men were still considered Indian in law. Thus, for the first time Indian status and residency rights began to be associated with the male line. Subsequent versions of the definition of 'Indian' went back and forth on the question of whether non-Indian men could acquire Indian status through marriage. By the time the first comprehensive *Indian Act* was enacted in 1876, it had become accepted policy that non-Indian men could not acquire Indian status through marriage.[32]

The next important official inquiry into the conditions of Indians in the colonies was that of the Pennefather Commission in 1858.[33] Established in response to the continuing emphasis on financial retrenchment by imperial authorities, its mandate was to report upon "the best means of securing the future progress and civilization of the Indian tribes" and "the best mode of so managing the Indian property as to secure its full benefit to the Indians, without impeding the settlement of the country."[34]

Commissioners found generally that the relationship between the Crown and Indian nations had changed a great deal over the past few years as a result of the civilization policy, with Indians slowly being weaned from dependence on the Crown. Although commissioners were optimistic about the possibility that Indians might be "reclaimed from their savage state" over time, they felt themselves forced to "confess that any hopes of raising the Indians as a body to the social or political level of their white neighbours, is yet but a glimmer and distant spark."[35] Slow progress in the civilizing program was attributed to the "apathy" and "unsettled habits" of Indians rather than to any shortcomings in the civilization policy or its administration.[36]

Ultimately, the Pennefather Commission recommended moves toward a policy of complete assimilation of Indians into colonial society. It called, for example, for direct allotment of lands to individual Indians instead of creating communally held reserves. This policy was carried out later in Manitoba in the case of the Métis people, where individual plots of land were awarded instead of collective Métis lands.[37] The commission also proposed collecting smaller bands in a single reserve, consolidating the various pieces of Indian legislation, legislating the dismantling of tribal structures, and eventually abolishing the Indian department once the civilizing efforts had borne fruit. As we will see, these recommendations were acted upon in one way or another over the years.

5. The *Gradual Civilization Act*: Assimilating Civilized Indians

Before the final report of the Pennefather Commission was published, the *Gradual Civilization Act* was passed in 1857.[38] It applied to both Canadas and was one of the most significant events in the evolution of Canadian Indian policy. Its premise was that by eventually removing all legal distinctions between Indians and non-Indians through the process of enfranchisement, it would be possible in time to absorb Indian people fully into colonial society.

Enfranchisement, which meant freedom from the protected status associated with being an Indian, was seen as a privilege. There was thus a penalty of six months' imprisonment for any Indian falsely representing himself as enfranchised. Only Indian men could seek enfranchisement. They had to be over 21, able to read and write either English or French, be reasonably well educated, free of debt, and of good moral character as determined by a commission of non-Indian examiners. For those unable to meet these criteria, a three-year qualifying period was allowed to permit them to acquire these attributes. As an encouragement to abandon Indian status, an enfranchised Indian would receive individual possession of up to 50 acres of land within the reserve and his per capita share in the principal of the treaty annuities and other band moneys.

An enfranchised man did not own the 50 acres of land allotted to him, however. He would hold the land as a life estate only and it would pass to his children in fee simple ownership upon his death. This meant that it was inalienable by him, but could be disposed of by his children once they had received it following his death. If he died without children, his wife would have a life estate in the land but upon her death it would revert to the Crown – not to the band. Thus, it would no longer be reserve land, thereby reducing the overall amount of protected land for the exclusive use and occupation of the reserve community. Where an enfranchised man died leaving children, his wife did not inherit the land. She would have a life estate like his and it would pass to the children of the marriage once she died.

Enfranchisement was to be fully voluntary for the man seeking it. However, an enfranchised man's wife and children would automatically be enfranchised with him regardless of their wishes, and would equally receive their shares of band annuities and moneys. They could not receive a share of reserve lands.

The provisions for voluntary enfranchisement remained virtually unchanged through successive acts and amendments, although some elements were modified over the years. Other developments in enfranchisement policy in subsequent legislation, such as making enfranchisement involuntary, will be described later in the discussion of the *Indian Act*.

The voluntary enfranchisement policy was a failure. Only one Indian, Elias Hill, was enfranchised between 1857 and the passage of the *Indian Act* in 1876.

His story was told in Chapter 6. Indians protested the provisions of the *Gradual Civilization Act* and petitioned for its repeal. In addition, Indian bands individually refused to fund schools whose goals were assimilative, refused to participate in the annual band census conducted by colonial officials, and even refused to permit their reserves to be surveyed for purposes of the 50-acre allotment that was to be the incentive for enfranchisement.

The passage of the *Gradual Civilization Act* marked a watershed in the long history of Indian policy making in Canada. In many ways, the act and the response it generated were precursors of the 1969 white paper termination policy in terms of souring Indian/government relations and engendering mutual suspicion. The impact of this legislation was profoundly negative in many ways.

The new policy created an immediate political crisis in colonial/Indian relations in Canada. The formerly progressive and co-operative relationship between band councils and missionaries and humanitarian Indian agents broke down in acrimony and political action by Indians to see the act repealed. Indian people's refusal to comply and the government's refusal to rescind the policy showed that the nation-to-nation approach had been abandoned almost completely on the Crown side. Although it was reflected in subsequently negotiated treaties and land claims agreements, the Crown would not formally acknowledge the nation-to-nation relationship as an explicit policy goal again until the 1980s.

By virtually abandoning the Crown promise, implied by the *Royal Proclamation of 1763* and the treaty process, to respect tribal political autonomy, the *Gradual Civilization Act* marked a clear change in Indian policy, since civilization in this context really meant the piecemeal eradication of Indian communities through enfranchisement. In the same way, it departed from the related principle of Crown protection of the reserve land base. Reserve lands could be reduced in size gradually without a public and formal surrender to which the band as a whole had to agree. No longer would reserve land be controlled exclusively by tribal governments.

The *Gradual Civilization Act* was also a further step in the direction of government control of the process of deciding who was or was not an Indian. While the 1850 Lower Canada land act had begun this process by defining 'Indians' for reserve residency purposes, this new legislation set in motion the enfranchisement mechanism, through which additional persons of Indian descent and culture could be removed from Indian status and band membership. In these two laws, therefore, can be seen the beginning of the process of replacing the natural, community-based and self-identification approach to determining group membership with a purely legal approach controlled by non-Aboriginal government officials.

Moreover, the *Gradual Civilization Act* continued and reinforced the sexism of the definition of Indian in the Lower Canada land act, since enfranchisement of a man automatically enfranchised his wife and children. The

consequences for the wife could be devastating, since she not only lost her connection to her community, but also lost the right to regain it except by marrying another man with Indian status.

Finally, the tone and goals of the *Gradual Civilization Act*, especially the enfranchisement provisions, which asserted the superiority of colonial culture and values, also set in motion a process of devaluing and undermining Indian cultural identity. Only Indians who renounced their communities, cultures and languages could gain the respect of colonial and later Canadian society. In this respect it was the beginning of a psychological assault on Indian identity that would be escalated by the later *Indian Act* prohibitions on other cultural practices such as traditional dances and costumes and by the residential school policy.

6. End of the Tripartite Imperial System

Between the passage of the *Gradual Civilization Act* and Confederation several events and legislative measures cemented the change in imperial Indian policy. They included the ending of treaty presents to bands (the symbols of the alliance between the Crown and Indian nations) in 1858 and the passage of the *Indian Lands Act* in 1860. Although this legislation formalized the procedure for surrendering Indian land in terms reflective of the procedure set out in the *Royal Proclamation of 1763*, it also transferred authority for Indians and Indian lands to an official responsible to the colonial legislature, thus breaking the direct tie between Indian nations and the British Crown upon which the nation-to-nation relationship rested.

This was a clear departure from the Crown/colony/Aboriginal tripartite system described earlier. The *Indian Lands Act* legislation replaced it with another model of direct colonial/Aboriginal relations. The withdrawal of the British Crown as the impartial arbiter and mediator between the weakened tribal nations and the ascendant and land-hungry colonies was a step that would have important consequences for Indians in the future. Indians in the Canadas who were aware of the transfer of responsibility for Indian affairs from the imperial Crown to the Province of Canada generally opposed it, preferring to manage their own affairs than to be managed by the colonial government, which they distrusted and feared:

> The Imperial Govt. is unwilling to find us officers as Formerly and withdraw wholly its protection we deem that there is a sufficient intelligence in our midst to manage our own affairs.[39]

The British parliamentary select committee looking into Aboriginal issues had warned in its 1837 report against entrusting the management of Aboriginal relations to the local legislatures in the British colonies, fearing a conflict of

interest between the duty of protection and that of responding to the desires of their electors:

> The protection of the Aborigines...is not a trust which could conveniently be confined to the local Legislatures. In proportion as those bodies are qualified for the right discharge of their functions, they will be unfit for the performance of this office, for a local legislature, if properly constituted, should partake largely in the interest, and represent the feelings of settled opinions of the great mass of people for whom they act. But the settlers in almost every Colony, having either disputes to adjust with the native Tribes, or claims to urge against them, the Representative body is virtually a party, and, therefore, ought not to be the judge in such controversies; ...we therefore advise, that, as far as possible, the Aborigines be withdrawn from its control.[40]

The government ignored this advice. From that point on, the authorities entrusted with managing relations with Indian nations in Canada could no longer necessarily be described as disinterested. They were 'local' in a political as well as a geographic sense.

At Confederation, Parliament was given law-making powers over "Indians, and Lands reserved for the Indians" in section 91(24) of what was then referred to as the *British North America Act*. Indian nations as such were not recognized in this new tripartite Crown/dominion/provincial scheme.

From a certain perspective, Indian nations were outside and inside Confederation at the same time. They were outside in the sense that they were still self-governing, but inside to the extent individual Indians cared to renounce their collective identity and be absorbed into the mainstream body politic. They could in this sense emigrate to Canada without having to leave their own country.

At Confederation, the secretary of state became the superintendent general of Indian affairs and, in 1868, acquired control over Indian lands and funds through federal legislation consolidating much of the previous decade's land protection measures. The definition of 'Indian' was finalized on a patrilineal model, excluding non-Indian men who married Indian women, but including non-Indian women who married Indian men. Thus the Lower Canada rule of 1851 became national policy.[41]

7. The *Gradual Enfranchisement Act*: Responsible Band Government

Two years after Confederation the *Gradual Enfranchisement Act* marked the formal adoption by Parliament of the goal of assimilation.[42] It repeated the earlier voluntary enfranchisement provisions and introduced stronger measures that

would psychologically prepare Indians for the eventual replacement of their traditional cultures and their absorption into Canadian society.

With these provisions Parliament entered a new and definitive phase regarding Indian policy, apparently determined to recast Indians in a mould that would hasten the assimilation process. The earlier *Gradual Civilization Act* had interfered only with tribal land holding patterns. The *Gradual Enfranchisement Act*, on the other hand, permitted interference with tribal self-government itself. These measures were taken in response to the impatience of government officials with slow progress in civilization and enfranchisement efforts. Officials were united in pointing to the opposition of traditional Indian governments as the key impediment to achieving their policy goals. This new act, it was hoped, would allow those traditional governments to be undermined and eventually eliminated.

The primary means of doing this was through the power of the superintendent general of Indian affairs to force bands to adopt a municipal-style 'responsible' government in place of what the deputy superintendent general of Indian affairs referred to as their "irresponsible" traditional governance systems.[43] This new system required that all chiefs and councillors be elected for three-year terms, with election terms and conditions to be determined by the superintendent general as he saw fit. Elected chiefs could be deposed by federal authorities for "dishonesty, intemperance or immorality." None of the terms was defined, and the application of these criteria for dismissal was left to the discretion of the Indian affairs officials upon receiving a report from the local Indian agent.

Only Indian men were to be allowed to vote in band elections, thereby effectively removing Indian women from band political life. Indian women were not given the right to vote in band elections until the 1951 *Indian Act*.[44]

The authority accorded the elective band councils was over relatively minor matters: public health; order and decorum at public assemblies; repression of "intemperance and profligacy"; preventing trespass by cattle; maintaining roads, bridges, ditches and fences; constructing and repairing schools and other public buildings; and establishing pounds and appointing pound keepers. There was no power to enforce this authority. Thus, under this governance regime Indian governments were to be left with mere shadows of their former self-governing powers. Moreover, even in these limited areas their laws would be ineffective if they were not confirmed by the governor in council (the cabinet). This restricted list of powers later became the basis for the powers accorded band councils under the later *Indian Act*.

Although referred to in the legislation as the "Tribe in Council", it is clear that the elective council system was not at all tribal in the larger sense of the nations or tribes referred to in the *Royal Proclamation of 1763*. It was restricted to individual reserves and to the inhabitants of individual reserves – a group that would be described in the later *Indian Act* of 1876 as a band. There was simply no

provision for traditional groupings going beyond the individual band level. In fact, the goal of the measures was specifically to undermine nation-level governance systems and the broader nation-level associations of Indians more generally.[45]

Traditional Indian patterns of land tenure were also affected. On reserves that had already been sub-divided into lots, a system of individual property holding could be instituted by requiring that residents obtain a 'location ticket' from the superintendent general. Otherwise, reserve residents would not be considered to be lawfully holding their individual plots of land. The intention was to establish a bond between Indians and their individual allotments of property in order to break down communal property systems and to inculcate attitudes similar to those prevailing in mainstream Canadian society. This policy may have been inspired by similar efforts in the United States, where individual allotments had always been used as a method of terminating tribal existence, particularly in the period between 1887 and the early part of the twentieth century.[46] Individual land allotments were also used when lands were set aside for the Métis people of Manitoba in 1871.[47]

The *Gradual Enfranchisement Act* also provided for the first time that an Indian woman who married a non-Indian would lose Indian status and band membership, as would any children of that marriage. In a similar way, any Indian woman who married an Indian from another band and any children from that marriage would become members of the husband's band. As discussed in Volume 4, Chapter 2, which examines Aboriginal women's perspectives, the sexism that had been bubbling beneath the surface of Indian policy was now apparent and would become an element of the *Indian Act* when it was passed a few years later.

The manifest unfairness of these provisions led to Indian complaints. For example, the Grand Council of Ontario and Quebec Indians wanted the provision concerning marrying out amended so that "Indian women may have the privilege of marrying when and whom they please without subjecting themselves to exclusion or expulsion from the tribe."[48]

Originally designed for the more 'advanced' Indians of Ontario and Quebec, this legislation was later extended to Manitoba and British Columbia and eventually to all of Canada. The band and band council system of the *Gradual Enfranchisement Act* and later the *Indian Act* and all it entailed were thus made uniform throughout Canada.

8. The *Indian Act* and Indians: Children of the State

In the 1870s, Canada grew by the addition of Manitoba, British Columbia and Prince Edward Island as provinces, and by the conclusion of Treaties 1 to 7 with the Indian nations and tribes of western Canada. Treaties 8 to 11 would be

concluded in the west and north between 1899 and 1921. These important events in our national history were discussed in more detail in Chapter 6 of this volume.

In 1874 new federal legislation extended the existing Indian laws to Manitoba and British Columbia.[49] That legislation also widened earlier prohibitions on selling alcohol to Indians, making it an offence punishable by imprisonment for an Indian to be found "in a state of intoxication" and with further punishment possible for refusal by the Indian accused of drunkenness to name the supplier of the alcohol. Earlier anti-alcohol provisions had been passed expressly to protect Indians from what was then the scourge of their communities; they had been directed only at the sellers, however. The 1874 prohibition was the beginning of the creation of special offences applicable only to Indians.

In the midst of the treaty-making process going on in western Canada, the first *Indian Act* as such was passed in 1876 as a consolidation of previous Indian legislation.[50] Indian policy was now firmly fixed on a national foundation based unashamedly on the notion that Indian cultures and societies were clearly inferior to settler society. The annual report of the department of the interior for the year 1876 expressed the prevailing philosophy that Indians were children of the state:

> Our Indian legislation generally rests on the principle, that the aborigines are to be kept in a condition of tutelage and treated as wards or children of the State. ...the true interests of the aborigines and of the State alike require that every effort should be made to aid the Red man in lifting himself out of his condition of tutelage and dependence, and that is clearly our wisdom and our duty, through education and every other means, to prepare him for a higher civilization by encouraging him to assume the privileges and responsibilities of full citizenship.[51]

The transition from tribal nation in the tripartite imperial system to legal incompetent in the bilateral federal/provincial system was now complete. While protection remained a policy goal, it was no longer collective Indian tribal autonomy that was protected: it was the individual Indian recast as a dependent ward – in effect, the child of the state. Moreover, protection no longer meant maintaining a more or less permanent line between Indian lands and the settler society; it meant the very opposite. By reducing the cultural distance through civilizing and assimilating measures that would culminate in enfranchisement of Indians and reduction of the reserve land base in 50-acre chunks, it was hoped Indian lands would in this piecemeal fashion soon lose their protected status and become part of the provincial land regime.

In keeping with the clear policy of assimilation, the *Indian Act* made no reference to the treaties already in existence or to those being negotiated at the time it was passed. The absence of any significant mention of the treaty relationship

continues in the current version of the *Indian Act*.[52] It is almost as if Canada deliberately allowed itself to forget the principal constitutional mechanism by which the nation status of Indian communities is recognized in domestic law. The omission is curious and speaks volumes about official intentions with regard to Indian autonomy after 1876. In short, it may give rise to an inference that Canadian officials did not attach great importance to the nation-to-nation nature of the treaty relationship.

The *Indian Act* of 1876 created an Indian legislative framework that has endured to the present day in essentially the terms in which it was originally drafted. Control over Indian political structures, land holding patterns, and resource and economic development gave Parliament everything it appeared to need to complete the unfinished policies inherited from its colonial predecessors. Indian policy was now clear and was expressed in the alternative by the minister of the interior, David Laird, when the draft act was introduced in Parliament: "[t]he Indians must either be treated as minors or as white men."[53] There was to be no middle road.

In general terms the 1876 act offered little that was different from what had gone before. It was much more complex and detailed, however, covering almost every important aspect of the daily lives of Indians on reserve. To facilitate the job of separating Indians from those who were not to enjoy the protection of Indian status and band membership, new definitions were provided to cover terms such as 'band' and 'reserve' in terms reflective of the policies already described.

The responsible cabinet minister was referred to in the legislation as the superintendent general of Indian affairs – a title first applied in the earlier legislation by which the new Province of Canada acquired control of Indian matters from the imperial Crown in 1860. In practice, this minister always had another, more politically significant portfolio. Thus, effective management of Indian affairs was left to the deputy superintendent general, an official who would be described today as a deputy minister.

As with earlier acts in relation to Indians, in the new *Indian Act* an Indian had to be someone "of Indian blood" or, in the case of mixed marriages, a non-Indian woman married to an Indian man. Indian women who married non-Indian men were not recognized as Indian. Thus, the exclusionary and sexist provisions described earlier found themselves incorporated into this first *Indian Act* in one form or another. In this same vein, Indian women were excluded from taking part in band land surrender decisions, since the new act restricted the procedure to "male members of the band of the full age of twenty-one years".[54] Not until 1951 would Indian women be permitted to participate in this most important band process.

Most of the protective features of earlier legislation were brought forward and made clear: no one other than an "Indian of the band" could live on or use

reserve lands without licence from the superintendent general; no federal or provincial taxation on real and personal property was permitted on a reserve; no liens under provincial law could be placed on Indian property and no Indian property could be seized for debt. All these features of the original act are still present in the current version and are credited by most Indian people with preserving the reserve land base from gradual erosion. Former president of the National Indian Brotherhood, George Manuel, supported this assessment, referring to this aspect of the *Indian Act* as follows:

> The main value of the Act from our point of view was that it was the one legal protection of our lands, and spelled out the basic rights and privileges of living on a reserve. But it also included a price tag.[55]

That price tag is discussed in more detail in the context of the many measures subsequently passed to increase federal government control and reduce the political and cultural autonomy of Indians under the *Indian Act* regime in the years between 1876 and 1951.

The 1876 *Indian Act* also carried the three-year elective band council system over from the *Gradual Enfranchisement Act* almost unchanged. Eventually, the term of office would be shortened to its current length of two years. The 1876 act repeated the list of band council by-law making powers in the earlier *Gradual Enfranchisement Act* (with one new power, that of allocating reserve land[56]), but they were still subject to governor in council confirmation. As with that earlier act, there was no power for a band to enforce these laws.

To foster individualism, the superintendent general of Indian affairs could now order that a reserve be surveyed and divided into lots and then require that band members obtain location tickets for individual plots of land. The voluntary enfranchisement provisions continued as described earlier, with two significant changes. First, an enfranchised man would receive his 50 acres in fee simple ownership at the end of the probationary period, thus making the land freely alienable right away. This provision was later changed so that no alienation could take place without the approval of the governor in council. In addition, Indians who earned a university degree or who became doctors, lawyers or clergymen were enfranchised automatically whether or not they wished to be enfranchised.

Although the *Indian Act* of 1876 applied throughout Canada, the bands of the west were excluded from many provisions (such as the elective band council system) because they were seen as insufficiently 'advanced' for these measures. They were also in the process of entering into Treaties 1 to 7 and still had sufficient military strength that it might have been unwise to attempt to subject them to federal legislation of this nature.

Thus, where a western tribe was not officially under the *Indian Act* (or the later *Indian Advancement Act* of 1884[57]) and where a treaty had been entered into, the Indian affairs department allowed Indians to hold elections under the close

supervision of the local Indian agent. In British Columbia the department often followed customary or traditional practice, while in the prairies the election practices were akin to appointments by the agent, since it was he who would usually initiate and control the entire procedure. In such cases, the agents would attempt to follow the *Indian Act* model, limiting terms to three years and otherwise ensuring that procedures similar to those followed in eastern Canada were adopted.

Indians in those parts of Canada subject to the *Indian Act* band council system refused to adopt it unless it was imposed on them. They were aware if they did adopt the system, the superintendent general of Indian affairs would have full supervisory and veto power over governance decisions made by the band. They would also be forced to concern themselves with the minor matters set out in the restrictive list of powers. Only one band is known to have adopted the *Indian Act* elective system voluntarily at the time.[58]

The 1880 consolidated version of the act created a new department of Indian affairs to replace the Indian branch of the department of the interior to manage Indian administration and to see to the appointment of local Indian agents. The new department remained under the direction and control of the department of the interior, however, with the minister of the interior being superintendent general of Indian affairs. The 1880 act also introduced a new provision denying band governments the power to decide how moneys from the surrender and sale of their lands or other resources would be spent. The governor in council thereby took the power to decide how to manage Indian moneys and retains it to this day.[59]

The 1880 consolidation also attacked the traditional band governments. Thus, where the superintendent general imposed the elective system on a particular reserve, traditional tribal leaders would no longer be permitted to exercise any powers at all. They would have to stand for election under the new *Indian Act* procedures, despite tribal or band traditions to the contrary. The new department of Indian affairs, concerned with implementing the assimilation policy, in this way showed its determination to foreclose the possibility of opposition from traditional elements on reserves by using the elective system.

Although band councils had by now been given the power to enforce their limited law-making powers, the 1880 version of the *Indian Act* required that proceedings be taken before a justice of the peace in the ordinary way before punishment was imposed. This meant that all proceedings regarding reserve events had to be taken off-reserve to a location where a justice of the peace could be found. Enforcement was all but impossible under these conditions.[60]

Aside from these few changes, the 1880 act reflected its 1876 predecessor and was the model on which all succeeding versions were erected. Although incremental amendments continued to be made to increase the power of the superintendent general and local Indian agents at the expense of bands and band councils, there was no real change in substance or approach for the next 70 years.

The only major legislative addition was the passage of the *Indian Advancement Act* in 1884, which was designed for the more 'advanced' Indians in eastern Canada and modelled on town councils.

The *Indian Advancement Act* gave the governor in council power to force bands to adopt its provisions regarding one-year elective band councils. There was to be no chief elected by the adult male electorate. Instead the elected band councillors would select one among them to be a chief councillor. For these purposes, the reserve was to be divided into electoral districts with a relatively equal number of voters. These provisions went further than those in the *Indian Act* by extending the powers of band councils into areas such as public health and by enabling band councils to tax the real property of all band members, whether held by location ticket or by an enfranchised former Indian who had received his 50 acres of reserve land.

However, and somewhat paradoxically, if the goal was to educate Indians in mainstream self-government matters, the superintendent general (typically through the local Indian agent) acquired vastly enlarged powers to direct all aspects of elections and to call, participate in and adjourn band council meetings. Although a few bands came under this act voluntarily,[61] most bands across Canada refused to adopt its provisions. The provisions of this act were later incorporated into the *Indian Act* and remained part of it until 1951.

9. The *Indian Act*: Oppressive Measures

From the passage of the first version of the *Indian Act* in 1876, amendments were brought forward almost every year in response to unanticipated problems being experienced by federal officials in implementing the civilization and assimilation policies to which they were committed. Many of these amendments eroded the protected status of reserve lands. Others enabled band governments to be brought under almost complete supervision and control. Yet others allowed almost every area of the daily life of Indians on reserves to be regulated or controlled in one way or another.

Many of the provisions, such as the prohibition on alcohol consumption, were often supported by large segments of the reserve population. However, the overall effect was ultimately to subject reserves to the almost unfettered rule of federal bureaucrats. The Indian agent became an increasingly powerful influence on band social and political matters and on most reserves came to dominate all important aspects of daily band life.

Most of these provisions and practices arose during the period between 1880 and the 1930s, when the assimilative thrust of Indian policy was at its peak. In many cases these measures were inspired by larger concerns about reducing federal government expenditures or supporting broader federal policies. For

example, much of the push for Indians to adopt farming in western Canada was prompted by a more general concern that they become more self-sufficient, so as to reduce the drain on federal expenditures. Similarly, much of the impetus for leasing 'unused' portions of reserves to non-Indian farmers and compelling surrenders of what were referred to as 'surplus' reserve lands came from broader economic policies in support of the war effort between 1914 and 1918.[62]

Many *Indian Act* provisions and practices associated with them were known at the time to be arbitrary and unfair. Others have come to be seen in that light with the benefit of hindsight. Some of these provisions and practices merit examination here to impart the flavour of the *Indian Act* regime that has coloured so profoundly the experiences of several generations of Indian people and their leaders. Thus, what follows is a review of some of the most oppressive amendments and practices in the *Indian Act* and its administration in the period up to and beyond the 1951 revision.

9.1 Protection of the Reserve Land Base

The *Gradual Civilization Act* first set the Crown on a course contrary to the procedures set out in the *Royal Proclamation of 1763* by allowing protected reserve land to be converted to provincial lands upon the enfranchisement of an Indian. The various versions of the *Indian Act* over the years continued in the same vein, permitting the piecemeal undermining and erosion of the reserve land base in many ways.

In 1894, for example, the superintendent general was given the power to lease reserve land held by physically disabled Indians, widows, orphans or others who could not cultivate their lands. Neither surrender nor band approval was required. In 1918 the superintendent general's power to lease reserve lands without a surrender was widened to include any uncultivated lands if the purpose of the lease was cultivation or grazing. This was intended to permit him to deal with the relatively large areas of western reserves that were not being cultivated intensively to support the war effort and was part of a broader national policy of encouraging Indian farmers to increase production and make reserve land available to non-Indian farmers, who had more machinery at their disposal and were therefore more efficient. When Arthur Meighen, the minister of the interior, was questioned in the House of Commons about the effect on Indians of having their best lands taken from them this way, he did not give a direct answer, replying instead that "we need [not] waste any time in sympathy for the Indian, for I am pretty sure his interests will be looked after by the Commissioner."[63]

Other reserve land use decisions were also removed from band council control. Thus, in 1894 bands lost the power to decide whether non-Indians could reside on or use reserve lands – the sole authority to do this was henceforth the

superintendent general's. The next year further amendments permitted the superintendent general to lease reserve land held by location ticket if the individual locatee wished to do so. There was no requirement that the band consent, even where the superintendent general intended to lease the land to non-Indians.

In 1919 the deputy superintendent general was given the power to grant location tickets to returning Indian war veterans, without band council consent, as part of the *Soldier Settlement Act*; the tickets were in lieu of the 160 acres of land promised veterans by the legislation. Although an intrusion into band autonomy and local self-government, this was less extreme than the scheme originally proposed – requiring Indian veterans to enfranchise if they wished to receive land under the *Soldier Settlement Act*. In the view of Deputy Superintendent Duncan Campbell Scott, this would have been a "fitting recognition of their services and...an object lesson to the other Indians".[64] The issues surrounding implementation of that act with respect to Indian veterans are discussed in more detail in Chapter 12 of this volume.

During this same period, great pressure was put on many bands to surrender portions of their reserves, usually so that the lands could then be sold to settlers or incorporated into adjacent municipalities. In response to an opposition question in 1906 regarding the 'unused' reserve lands in the west, interior minister Frank Oliver replied that the Indian affairs department was making efforts to acquire surrenders of 'surplus' Indian lands, noting in this regard that "if it becomes a question between the Indians and the whites, the interests of the whites will have to be provided for."[65] To induce such surrenders, an amendment to the *Indian Act* was passed that same year allowing up to 50 per cent of the proceeds of a surrender and sale to be distributed immediately to band members.[66]

The new provision was put to immediate use in the case of the St. Peter's reserve in Manitoba. A long and tangled history of dealings regarding reserve lands had led to serious controversy and to a subsequent recommendation by an investigating judge that the Indians be encouraged to surrender the entire reserve in order to clear up the legal problems that had arisen over the years. Accordingly, a surrender was arranged with much difficulty in 1907, upon which the judge noted that the government had "readily and cheaply got out of a nasty tangle."[67] The surrender was repudiated the next year, however, by a substantial number of band members on the basis of irregularities in the surrender process; they also asserted that they had been promised a sum of money by federal officials and had never received it.[68]

The inducements and other pressures for surrender were insufficient to satisfy the demand for additional Indian lands. Thus, public authorities were given the power to expropriate reserve land, without a surrender, in 1911. Any company, municipality or other authority with statutory expropriation power was enabled to expropriate reserve lands without governor in council authorization so long as it was for the purpose of public works. This power continues in the

current act, but now governor in council authorization is required. It has been used in the past and is strongly opposed by Indians because of its powerful invasive effect on the reserve land base. Even the threat of its use was often sufficient to force bands to comply by surrendering lands 'voluntarily'.

A good example of this provision's use and the threat of its use is provided by the relatively recent *Kruger* case in the Federal Court of Appeal. The case involved an action for breach of fiduciary obligation in the taking of two large tracts of land from the Penticton reserve in British Columbia for purposes of an airport. The first tract was expropriated in 1940 by the federal transport department, which had refused to follow the advice of Indian affairs officials who had helped negotiate a leasing arrangement instead. The second tract of land was lost through a surrender imposed by the threat of transport officials to expropriate reserve land, once again after a lengthy period of negotiation. In the second case, Mr. Justice Heald noted that transport officials "made little effort to seriously negotiate a settlement" and that "[t]heir only answer was to expropriate first and then negotiate thereafter."[69] Despite these facts, two other members of the court could not find a breach of the Crown's fiduciary obligation. Ultimately all three judges agreed, for different reasons, that the case ought to be dismissed.[70]

In 1911, another amendment to the *Indian Act* allowed a judge to issue a court order to move a reserve within or adjoining a municipality of a certain size if it was 'expedient' to do so. There was no need for band consent or surrender before the entire reserve was moved. This provision, along with the expropriation power, was subsequently referred to as the 'Oliver Act'. It was passed despite Parliament's knowledge that its implementation could lead to a breach of treaty rights. It arose in the context of a general desire among federal officials to reduce the size of many Indian reserves in order to promote development. The minister of the interior, Frank Oliver, dealt with the issue as follows:

> For while we believe that the Indian, having a certain treaty right, is entitled ordinarily to stand upon that right and get the benefit of it, yet we believe also that there are certain circumstances and conditions in which the Indian by standing on his treaty rights does himself an ultimate injury as well as does an injury to the white people, whose interests are brought into immediate conjunction with the interests of the Indians.[71]

The provision was considered necessary so that Parliament would not have to pass special legislation every time it wished to expropriate reserves adjoining towns. This had been done in the case of the Songhees reserve in British Columbia that same year (see Chapter 11 on relocations), and federal officials were seeking a more expeditious way of proceeding in such cases. The Songhees reserve had been moved from Victoria to a location outside the city in order to free up prime urban land for development.

Indians protested this provision, seeing in it an outright attack on the integrity of their reserve land base. In 1912, for instance, the Grand General Indian Council of Ontario passed a resolution condemning it.[72] Nonetheless, it was not repealed until 1951. Federal officials were able to apply this new provision almost immediately, seeking in 1915 to move a Mi'kmaq reserve in Sydney, Nova Scotia, to another location outside the city. The judge to whom the inquiry was directed granted the application, finding that it was in the public interest because "removal would make the property in that neighbourhood more valuable for assessment", since the "racial inequalities of the Indians, as compared with the white man, check to a great extent any move towards social development".[73] Similarly, the growing population of the band and the relatively small size of the reserve made it possible for the judge to conclude that it would be in the best interests of the Indians that the reserve be moved, despite the fact that they had previously indicated strong resistance to surrendering the reserve or moving to another location.

In other ways, too, Indians' control of their already small reserve land base was undermined through additional powers given to federal officials. In 1919, for example, the governor in council was authorized to make regulations allowing leases to be issued for surface rights on Indian reserves in connection with otherwise valid mining operations. This would allow such operations to make use of adjoining reserve lands where necessary in the event the band refused to surrender them. There was provision for compensating the occupant of the land over which a lease might be granted. In 1936, responsibility for Indian affairs was transferred from the department of the interior to the department of mines and resources. Two years later, further amendments clarified the leasing authority originally granted in 1919, dropping the statutory requirement for compensation.

By the time of the 1951 *Indian Act* revision, bands and band councils were no longer in a position to exercise any real control over their reserve lands beyond refusing to consent to land surrenders for sale or attaching conditions to such surrenders. This situation has continued almost unchanged to the present day. Many bands complain that the high degree of federal control over their land use decisions is preventing them from taking advantage of commercial and development opportunities in the modern Canadian economy. This issue is discussed in more detail in Volume 2 of this report.

9.2 Band Government and Law-Making Powers

In many cases amendments to the *Indian Act* gave the superintendent general further powers to control band councils. For example, in 1884 he was given the power to override a band council's refusal to consent to the enfranchisement of a band member who otherwise met the qualifications. He could also annul the election of any chief found guilty of "fraud or gross irregularity" in a band

council election and recommend to the governor in council that such a chief be prohibited from standing for election for six years. This provision was passed to counter the practice of many bands of holding sham elections and simply electing their traditional or hereditary leaders.

In 1914 the superintendent general received authority to make health regulations that would prevail over competing band council by-laws. This regulation-making power was enhanced to cover many more areas in 1936. Since these areas coincided with many of the band council law-making powers, this effectively allowed federal authorities to second-guess band councils.

In 1933 the authority of Indian agents was reinforced by an administrative directive requiring that all Indian complaints and inquiries be directed to the Indian affairs branch through the local agent. This produced the paradoxical situation of band complaints about their agents having to be directed to headquarters in Ottawa by the very agents complained about. Three years later other *Indian Act* amendments authorized Indian agents to cast the deciding vote in band council elections in the event of a tie and to preside at and direct band council meetings.

Although Indian agents began to be phased out in the 1960s, band councils still operate under the restrictive and limiting by-law making framework first developed in 1869. In the modern era, most band council by-laws are subject to either a ministerial power of disallowance or a requirement that the minister confirm them. In addition, the regulation-making authority of the governor in council may render band council by-laws irrelevant if they cover the same area as the regulation.

Moreover, subject to certain limits, recent judicial decisions have confirmed that general provincial laws may apply to Indians living on federally protected reserve lands.[74] In many situations both the provincial law and the band council by-law cover the same area. Traffic laws are a good example. So long as they do not actually conflict in a narrow constitutional sense, both sets of laws stand. This effectively undercuts band council authority and impedes the establishment of a band legal regime appropriate to the circumstances of the reserve concerned.

The limited and supervised law-making powers of bands under the *Indian Act* are a constant object of criticism by Indian people and appear to be more and more glaringly at odds with current trends toward enhanced autonomy for First Nations communities and general trends toward decentralization within the Canadian federation.

9.3 Enfranchisement

The concept of voluntary enfranchisement was given its first legislative expression in the *Gradual Civilization Act* of 1857 and remained virtually unchanged through successive versions of the *Indian Act* until relatively recently. It was not

a realistic or popular policy among Indians, most of whom had no intention of renouncing their personal and group identity by assimilating into non-Aboriginal society. Since only one Indian, Elias Hill, had been enfranchised voluntarily (see Chapter 6), federal officials decided to make it compulsory in some situations.

Thus, to the 'privilege' of voluntary enfranchisement, officials added compulsory enfranchisement in 1876 for those who obtained higher education. However, that first *Indian Act* also allowed unmarried Indian women to seek enfranchisement – ironically, one of the few examples of sexual equality in the early versions of the *Indian Act.* Given the stipulation that such a woman be unmarried, there was little possibility that her decision would affect others – unlike the case of men, whose enfranchisement would automatically enfranchise their wives and children.

In addition, the new *Indian Act* permitted entire bands to be enfranchised, a provision that the Wyandotte (Wendat) band of Anderdon, Ontario took advantage of in 1881, finally receiving letters patent enfranchising them in 1884. This move greatly encouraged subsequent generations of Indian affairs officials in their civilizing and assimilating endeavour.[75] Bands could still apply for voluntary enfranchisement until 1985. Only one other band was enfranchised voluntarily during the period when the *Indian Act* contained band enfranchisement provisions.[76]

With respect to compulsory individual enfranchisement, an 1880 amendment removed the involuntary element, thereby allowing university-educated Indians and those who had entered one of the professions to retain their Indian status if they wished. However, to prevent Indian communities from impeding worthy candidates from taking advantage of the provisions, in 1884 another amendment removed the right of the band to refuse to consent to enfranchisement or to refuse to allot the required land to the individual who had applied for enfranchisement during the probationary period. Further amendments in 1918 made it possible for Indians living off-reserve to enfranchise. This included widows and women over the age of 21. Passage of this amendment produced immediate results. The department of Indian affairs noted, for example, that in the period before 1918, only 102 persons had enfranchised, whereas between 1918 and 1920, a further 258 Indians abandoned their Indian status through enfranchisement.[77]

The most drastic change occurred in 1920, however, when the act was amended to allow compulsory enfranchisement once again. A board of examiners could be appointed by the superintendent general of Indian affairs to report on the "fitness of any Indian or Indians to be enfranchised" and, following the board's report, the superintendent general could recommend to the governor in council that "any Indian, male or female, over the age of twenty-one [who] is fit for enfranchisement" be enfranchised two years after the order.[78] This provision was repealed two years later, but reintroduced in slightly modified form in 1933

and retained until the major revision of the act in 1951. A further modification, made in 1951 and retained until 1985, allowed the compulsory enfranchisement of Indian women who married out. These matters are discussed in more detail in Volume 4, in Chapter 2 and are touched on only generally in this chapter.

A particularly compelling example of how enfranchisement was used by federal officials – the case of F.O. (Fred) Loft – is described later in this volume (see Chapter 12). A returning veteran of the First World War, Loft was a Mohawk from the Six Nations reserve at Brantford. After the war he became an effective leader and national spokesman for the fledgling League of Indians of Canada, a political organization designed to lobby on behalf of Indian concerns in Canada. His organizational activities alarmed Indian affairs officials, who were instructed not to co-operate with him in any way. After the passage of the 1920 amendment allowing compulsory enfranchisement, the deputy superintendent general of the day, Duncan Campbell Scott, threatened to use it to enfranchise Loft and thereby deprive him of credibility among status Indians in the country. Loft protested strongly and wrote directly to the superintendent general. In the interim, the involuntary element was repealed in 1922, so the threat was never carried out.[79]

Compulsory enfranchisement of Indian women who married non-Aboriginal, Métis, Inuit or unregistered Indian men was introduced in 1951 and retained until repealed in 1985 by Bill C-31. As explained in the chapter on the perspectives of Aboriginal women (Volume 4, Chapter 2), from 1951 on, enfranchisement measures under the notorious subsection 12(1)(b) of the act were directed primarily against Indian women who married men who did not have Indian status. The effects on enfranchised women and their children could be devastating. They, along with their children, would lose Indian status, the right to live in the reserve community, and even the right to treaty benefits or to inherit reserve land from family members. Compulsory enfranchisement of women led to an enormous increase in the number of enfranchised persons after the figures had remained relatively low for decades.[80]

9.4 Reserve Justice Administration

In 1881, the administration of non-Aboriginal justice was brought formally to Indian reserves by making officers of the Indian department, including Indian agents, *ex officio* justices of the peace and by extending to the reserves the jurisdiction of magistrates in towns and cities. Importantly, the department of Indian affairs now had authority to enforce its own civilizing regulations. The next year local Indian agents were given the same powers accorded magistrates. Evidently, this was a considerable extension of the powers of administrators with no previous legal training.

In 1884, yet another set of amendments allowed Indian agents, in their role as justices of the peace, to conduct trials wherever they thought necessary.

Presumably, this would allow them to conduct trials off-reserve as well. The same amendments extended the authority of Indian agents acting as justices of the peace beyond *Indian Act* matters to "any other matter affecting Indians." Given that the *Criminal Code* had not yet been enacted, this presumably included all civil and criminal matters generally – a considerable amount of jurisdiction for a civil servant. This was corrected two years later, however, to limit their jurisdiction to *Indian Act* matters.

Also in 1884, a new offence was created under the *Indian Act*, that of inciting "three or more Indians, non-treaty Indians, or halfbreeds" to breach the peace or to make "riotous" or "threatening demands" on a civil servant. In addition, the superintendent general was given authority to prohibit the sale to any Indian in the west of "fixed ammunition or ball cartridge." These measures were adopted for purely political motives – to foil the Métis and Cree peoples, who were increasingly discontented with government policy toward them.

Ultimately, of course, the other stern measures being taken against them, such as the restriction of rations to the Cree, for example, would cause them to rebel against the imposition of Canadian political authority over them in what became known as the second Riel Rebellion. Thus, the federal government criminalized Indian and Métis political protest and prevented Indians from receiving ammunition needed for hunting at a time when they were already suffering from the effects of Deputy Superintendent Vankoughnet's cost-saving policy of restricting rations to them following the drastic decline of the buffalo herds.[81] Both new offences, inciting and providing ammunition, were within the jurisdiction of the Indian agent.

Amendments to the *Indian Act* in 1890 brought Indian persons accused of certain sexual offences within the jurisdiction of Indian agents.[82] Following enactment of a comprehensive *Criminal Code* in 1892, Indian agents lost this aspect of their criminal law authority over Indians, but it was restored to them in 1894 along with jurisdiction over two additional offences, Indian prostitution and Indian vagrancy.

In describing the evolution of the powers of Indian agents, the two judges who conducted the Aboriginal Justice Inquiry of Manitoba compared the relatively more oppressive Canadian approach to bringing non-Aboriginal justice to Indians with that used on reservations in the United States:

> The Americans also sought from the outset to use the court system as a "civilizing" tool to foster their values and beliefs in substitution for traditional law and governmental structures. It was felt that this was accomplished best through the hand-picking of individual tribal members to be appointed as judges under the supervision of the Bureau of Indian affairs Indian agents. The Canadian approach was much more oppressive. All Indian agents automatically were granted judicial authority to buttress their other powers, with the result that

> they could not only lodge a complaint with the police, but they could direct that a prosecution be conducted and then sit in judgment of it. Except as accused, Aboriginal persons were excluded totally from the process.[83]

It seems clear that the justice administration powers of the agents served more to augment their already impressive array of administrative powers than to deliver Canadian justice to Indians. It is hardly surprising, then, that even today, many Indians still harbour a deep-seated resentment toward mainstream justice officials – something pointed out by most of the many recent Aboriginal justice inquiries. We dealt with these issues in some detail in our special report, *Bridging the Cultural Divide*.[84]

Today, there are no longer any Indian agents exercising judicial functions. A few Indians have now been appointed to the position of justice of the peace under the *Indian Act*, but only on three reserves.[85] Except for those reserves that have appointed by-law enforcement officers and band constables under delegated federal authority, most bands have no internal means of enforcing their by-laws or prosecuting those who contravene them. They must rely for the most part on provincial police and provincial Crown attorneys to prosecute by-law offenders in the provincial court system. Unfortunately, police and prosecutors have a heavy workload and usually intervene only in the case of criminal and serious statutory offences. As a result, bands themselves must often initiate proceedings where their by-laws have been violated, sometimes by engaging counsel to pursue such matters. This is expensive and time-consuming, unless the band is a large one with the financial resources and political will to pursue such actions.

With regard to criminal matters, the remoteness and isolation of many communities means that access to the judicial system is often limited to sporadic and hurried visits by circuit courts enforcing Canadian criminal law. Thus, the police and courts are usually unable to accommodate Indian values and concepts of justice. The results include inappropriate charging practices and convictions and sentences that do not reflect Indian views or needs. These matters have been reviewed extensively in federal and provincial Aboriginal justice inquiries over the years. Many bands see the existing justice system as a foreign one, less a protector than an enforcer of an alien and inappropriate system of law.

Effective enforcement of *Indian Act* by-laws and the most common criminal offences involves not only laying charges against offenders, but also prosecution, adjudication and sentencing. The current situation with outside police forces refusing to enforce by-laws, the limited criminal jurisdiction of *Indian Act* justices of the peace, the forced reliance on provincially and territorially administered courts, and the absence of any authority for bands to correct these anomalies means jurisdictional gaps, confusion over procedures and policies, and the continuing inability of bands to provide effectively for the safety and security of their own members.

Paradoxically, most bands have moved from a position of extremely heavy judicial control of reserve law and order matters to a situation of almost no control, except by outside forces on a sporadic basis. From a position of too much enforcement, they have arrived at one of not enough. This is just one of the legacies of the past, but it is one that has profoundly serious consequences for daily life in most reserve communities.

9.5 Attacks on Traditional Culture

In 1884 official policy turned from protecting Indian lands from non-Indians to protecting Indians from their own cultures. That year amendments to the *Indian Act* prohibited the potlatch and the Tamanawas dance. The potlatch was a complex ceremony among the west coast tribes that involved giving away possessions, feasting and dancing, all to mark important events, confirm social status and confer names and for other social and political purposes. Tamanawas dances were equally complex west coast ceremonies involving supernatural forces and initiation rituals of various kinds, many of which were repugnant to Christian missionaries.[86] A jail term of two to six months could result from conviction of any Indian who engaged or assisted in Tamanawas dances.

This was a significant development in Indian policy because it went further than merely imposing non-Indian forms on traditional Indian governance or land holding practices – it was a direct attack on Indian culture. The goal was, of course, to assist the civilization and assimilation goals of Indian policy by abolishing what a British Columbia official referred to at the time as the evil that lay "like a huge incubus upon all philanthropic, administrative or missionary effort for the improvement of the Indians."[87]

The 1884 prohibition on potlatching and the Tamanawas dance was not pursued as vigorously as its sponsors had hoped, although the arrests and harassment of potlatchers apparently had the desired effect of reducing the incidence of potlatching and Tamanawas dances or at least forcing adherents to conduct these activities in secret. The failure to pursue the ban more actively was partly because of the reluctance of the Indian agents to enforce it – not all were opposed to traditional practices such as these. Partly it was the result of an early decision by British Columbia Chief Justice Begbie that was unsympathetic to such prosecutions.[88] In British Columbia, it seems as if most of the anti-potlatching impetus came from missionaries and Christian converts among the west coast tribes rather than from government officials.[89] Thus, no one was jailed for potlatching until 1920, during a period of intense official enforcement of prohibitions on traditional cultural practices in British Columbia and on the prairies.

However, official disapproval and the pressure generated by it, harassment from the Indian agents, use of the *Indian Act* trespass provisions to evict Indians from other reserves, and mass arrests and trials did have the desired effect of eliminating or at least undermining the potlatch and other traditional ceremonies in

many cases. This was particularly so under the leadership of Deputy Superintendent Duncan Campbell Scott, who led a virtual crusade against traditional Indian cultural practices and who sponsored an amendment to the *Indian Act* in 1918 that gave Indian agents the additional power when acting as justices of the peace to prosecute the anti-dancing and anti-potlatching provisions.

Speaking at our round table on justice, British Columbia Provincial Court Judge Alfred Scow supported the conclusion that official harassment of the potlatch and other traditional ceremonies was harmful to the traditions of his people, the Kwakiutl of Vancouver Island:

> The *Indian Act* did a very destructive thing in outlawing the ceremonials. This provision of the *Indian Act* was in place for close to 75 years and what that did was it prevented the passing down of our oral history. It prevented the passing down of our values. It meant an interruption of the respected forms of government that we used to have, and we did have forms of government be they oral and not in writing before any of the Europeans came to this country. We had a system that worked for us. We respected each other. We had ways of dealing with disputes. We did not have institutions like the courts that we are talking about now. We did not have the massive bureaucracies that are in place today that we have to go through in order to get some kind of recognition and some kind of resolution.[90]

Following the initial ban of the potlatch and the Tamanawas, further amendments prohibiting traditional dances and customs followed in 1895. Thus, later practices associated with traditional dances, including the Blackfoot sundance and the Cree and Saulteaux thirst dance, were singled out for an outright ban. However, since the ban applied only to the giving away of property and to the wounds and other injuries that were customary for some of the participants, the dances themselves were immune from the prohibition.

Indian agents nonetheless attempted to suppress the actual dances. This led to tensions between agents and the RCMP, who were charged with enforcement, because the police were unwilling to go beyond the law to enforce departmental policy. Arrests and imprisonments did take place, however, including one in 1904 that led to a sentence of two months' imprisonment at hard labour for a 90-year-old, nearly blind man named Taytapasahsung.[91]

Because of the scandal associated with such cases and the growing popularity of stampedes and agricultural exhibitions at which Indians were increasingly invited to dance, an amendment was passed in 1914 barring western Indians under penalty of law from participating without official permission in "Aboriginal costume" in any "dance, show, exhibition, stampede or pageant." Arrests and prosecutions immediately went up, but because the offences were indictable ones, they were beyond the jurisdiction of Indian agents acting as

justices of the peace. In such cases they could merely lay charges in another court. In 1918 this was corrected by bringing these offences within the agent's jurisdiction and removing them from courts outside the reserve.

In 1921, the deputy superintendent general wrote to one of his western officials, urging him in the following terms to find alternatives to what he clearly misunderstood to be a mere recreational activity:

> It has always been clear to me that the Indians must have some sort of recreation, and if our agents would endeavour to substitute reasonable amusements for this senseless drumming and dancing, it would be a great assistance.[92]

In 1933 the requirement that the participants be in Aboriginal costume was deleted from the prohibition; to attract the penalty it was sufficient that an Indian participate in the event, no matter how he or she was dressed. The apparent intent was to prevent Indians from attending fairs and stampedes without the permission of Indian affairs officials. Since the first prohibition was enacted in 1895, various means had been found by Indians and their supporters to get around the ban on dancing. This new offence seems in retrospect to have been the last desperate attempt of Indian affairs officials to enforce their anti-dancing policy.

These provisions have now been removed from the *Indian Act*. Nonetheless, and as illustrated by the comments of Judge Scow concerning the ban on potlatching, their legacy continues. Indian traditional ways have been subverted and have sometimes disappeared. This has left many Indian communities trapped between what remains of traditional ways of doing things and the fear of importing too much more of mainstream Canadian cultural values into reserve life.

9.6 Liquor Offences

The control of sales of alcohol to Indians had been a feature of colonial legislation long before the *Indian Act* and had been ardently requested by many Indian nations because of the destructive social consequences of drunkenness in Indian communities. Both before and after Confederation penal sanctions were imposed on the sellers of alcohol.

However, legislation was passed in 1874 making it an offence punishable by one month in jail for an Indian to be intoxicated on- or off-reserve. Failure to name the seller of the alcohol in question could lead to an additional 14 days' imprisonment. These provisions became part of the 1876 *Indian Act*, supplemented by the prohibition on simple possession of alcohol by an Indian on-reserve.

The later 1951 *Indian Act* revision made one exception to the provisions by allowing an Indian to be in possession of alcohol if in a public place and in

accordance with provincial law. It was still an offence to be drunk, however. No non-Indian could have been convicted of a similar offence. In the *Drybones* case the Supreme Court of Canada finally struck down the off-reserve intoxication offence for contravening the equality provision of the *Canadian Bill of Rights*.[93]

These provisions have been eliminated from the contemporary version of the *Indian Act*, and control over intoxicants on-reserve has been transferred entirely to the band and band council.

9.7 Pool Room Prohibition

In 1927 the superintendent general of Indian affairs was given the unusual power of regulating the operation of pool rooms, dance halls and other places of amusement on reserves across Canada. This was apparently to ensure that Indians would learn industriousness and would not spend too much time in leisure pursuits that were available to non-Indians. Where Indians were tempted to leave the reserve to play pool, further amendments in 1930 made it an offence for a pool room owner or operator to allow an Indian into the pool room who "by inordinate frequenting of a pool room either on or off an Indian reserve misspends or wastes his time or means to the detriment of himself, his family or household". The penalty for the pool room operator in such a case was a fine or a jail term of up to one month. These provisions are no longer in the *Indian Act*.

9.8 Sale of Agricultural Products

Amendments to the *Indian Act* in 1881 aimed to protect western Indians by prohibiting the sale of their agricultural produce except in conformity with official regulations. Anyone who purchased Indian agricultural produce without the appropriate permit was subject to summary conviction and a fine or imprisonment for up to three months. The official rationale was that this was necessary to prevent Indians from being swindled by non-Indians and to prevent the exchange or barter of agricultural products for things the agents did not consider worthwhile, especially alcohol.

However, another motive may have been the desire to reduce competition between Indian and non-Indian farmers. There are indications that in the 1880s non-Indian farmers were complaining to local Indian agents about the competition they were facing from Indian farmers, claiming it was unfair because of the government assistance to reserves.[94]

At this time, official federal policy on the prairies was explicitly to convert Indians to peasant farmers on the model of peasants of Europe. This addled policy was the brainchild of Hayter Reed, then deputy superintendent general of Indian affairs. He was imbued with a philosophy of strict social Darwinism,

convinced that social evolution could proceed only in defined stages, from savagery to barbarism to civilization. Convinced that Indian attempts to 'advance' themselves too quickly would be 'unnatural', he stated as follows:

> The fact is often overlooked, that these Indians who, a few years ago, were roaming savages, have been suddenly brought into contact with a civilization which has been the growth of centuries. An ambition has thus been created to emulate in a day what white men have become fitted for through the slow progress of generations.[95]

The requirement for a permit was also used by certain agents as more than a means to oversee transactions in Indians' interests. It was equally available as yet another tool for enforcing compliance with official policies. In this respect, the daughter of a prominent prairie Cree leader reports that her father saw the permit system as a loaded gun in the hands of the agent:

> As time went on the permit system began to evolve into a disciplinary device. If the agent did not like a certain Indian, or if an Indian did something to displease him the agent could refuse or delay indefinitely a permit enabling him to sell any of his produce or to buy needed stock, equipment or implements. Favoured Indians would get all kinds of lands and help, totally contrary to the intent of the treaties, others got nothing. With no money coming in, unable to pay his debts, properly work his land or even to feed his stock the helpless farmer had to give away his cattle and try to find work from outside farmers, which usually consisted of clearing bush or picking rocks. This was enervating, debilitating work which the farmers themselves detested. And even such work was seasonal and not always available. White people, seeing only that the Indian had stopped working and had not paid his debts, concluded that Indians were useless, lazy and unreliable. There were too many men like this on the reserves.[96]

Whatever may have been the underlying reasons for this prohibition or the uses to which it was put, one effect was to hinder Indian farmers and to make them appear less efficient or even to drive them from farming. Nonetheless, the provision was retained and expanded in successive versions of the *Indian Act* and was extended in 1941 to all Indians in Canada regarding the sale of furs and wild animals. Despite the 1951 revision and the advent of the *Canadian Charter of Rights and Freedoms* and other human rights instruments, the present version of the *Indian Act* still contains a provision prohibiting the sale of agricultural products by western Indians without official permission, although it is apparently no longer enforced.

9.9 Indian Legal Claims

In a 1927 amendment, the superintendent general acquired a powerful new weapon in his arsenal – the right to require that anyone soliciting funds for Indian legal claims obtain a licence from him beforehand. Conviction could lead to a fine or imprisonment for up to two months. Official explanations once again focused on the need to protect Indians, this time from unscrupulous lawyers and other "agitators".[97]

The true reason probably had more to do with the desire of federal officials to reduce the effectiveness of Indian leaders such as Fred Loft and of organizations such as the Allied Tribes of British Columbia and the Six Nations Council. These groups had already proven troublesome to Indian affairs officials because of their insistence that their unresolved land claims be dealt with. In fact, Indian affairs officials were actively working to have charges laid against longtime British Columbia activist Arthur E. O'Meara when he died in 1928 and were on the verge of charging Loft when, elderly and tired, he finally withdrew from the struggle for Indian rights in the early 1930s.[98]

The effect of this provision was not only to harass and intimidate national Indian leaders, but also to impede Indians all across Canada from acquiring legal assistance in prosecuting claims until this clause was repealed in 1951. The claims of most British Columbia Indians as well as those of the Six Nations are still outstanding – as are hundreds of others.

9.10 The Pass System

The notorious pass system was never part of the formal *Indian Act* regime. It began as a result of informal discussions among government officials in the early 1880s in response to the threat that prairie Indians might forge a pan-Indian alliance against Canadian authorities. Designed to prevent Indians on the prairies from leaving their reserves, its immediate goal was to inhibit their mobility. Under the system, Indians were permitted to leave their reserves only if they had a written pass from the local Indian agent. The agent would often act on the advice of the reserve farm instructor.

The pass system should be read against the backdrop of other attempts to interfere with Indian cultural life, as it was intended not only to prevent Indian leaders and potential militants from conspiring with each other, but also to discourage parents from visiting their children in off-reserve residential schools and to give agents greater authority to prevent Indians from participating in banned ceremonies and dances on distant reserves.

Although the pass system was official policy on the prairies, there was never any legislative basis for it. It was therefore nothing more than an expedient policy that arose apparently from a suggestion by the deputy superintendent general of Indian affairs to Prime Minister Macdonald in 1885.[99] It was maintained

through the 1880s but had fallen into general disuse by the 1890s, although it was used occasionally in various parts of the prairies into the twentieth century. The RCMP disliked enforcing the pass system because of their fear that, if challenged, it would be found illegal by the courts and would bring their other law enforcement efforts into disrepute.

In practice the pass system was only partly effective in restricting Indian movement and was often ignored by Indians and by the agents themselves. Because it could not be legally enforced, many Indian agents simply issued passes to those who were going to leave the reserve in any event, or else they attempted to enforce the system by other means. Thus, rations and other matters within the control of the Indian agent were sometimes withheld from those who refused to comply. Another alternative was to prosecute Indians found off the reserve without passes for trespass under the *Indian Act* or for vagrancy under the *Criminal Code*,[100] both of which were within the jurisdiction of the agent.

9.11 Indian Agents

The role of the Indian agent has never been fully documented in Canadian history. This is largely because the work of these local reserve representatives of the superintendent general of Indian affairs was usually conducted in geographically remote areas, far from the scrutiny of most Canadians. Moreover, Indian affairs were, until relatively recently, well down on the list of the preoccupations of most Canadians.

Most accounts of how Indian agents conducted themselves have therefore been written from the vantage point of Indians and in the context of the many civilizing and assimilating measures that were imposed on them through official federal policy. Some of those measures and the role played by Indian agents have already been described.

Over the years the superintendent general acquired an increasingly vast array of powers to intervene in almost all areas of daily reserve life. Most of these powers were available to the agents. With their control of local administrative, financial and judicial matters, it is easy to understand how they came to be regarded as all-powerful and as persons of enormous influence in community life on most reserves. For example, in a 1958 study of Indian conditions in British Columbia, the duties of superintendents (agents) were described as follows:

> [T]he superintendent deals with property and with records, or with the recording of property. He registers births, deaths and marriages. He administers the band's funds. He supervises business dealings with regard to band property. He holds band elections and records the results. He interviews people who want irrigation systems, who complain about land encroachments, who are applicants for loans. He suggests to others that, if they are in a common-law relationship, they should get married, for, among other reasons, this simplifies the

> records. He obtains information about persons applying for enfranchisement. He adjusts the property of bands when members transfer. He deals with the estates of deceased Indians. He obtains the advice of the engineering officers on irrigation systems, and the building of schools. He negotiates the surrender of lands for highways and other public purposes. He applies for funds to re-house the needy and provide relief for the indigent. He draws the attention of magistrates to factors which bear upon Indians standing trial on criminal charges.[101]

To that list, of course, must be added the justice of the peace duties and powers described earlier: the power of inspecting schools and health conditions on reserves, presiding over band council meetings and, later, voting to break a tie. In addition, and as outlined in Chapter 12, the agents were also responsible for encouraging Indians to enlist in the armed forces during the wars and for keeping lists of those enlisted for purposes of administering veterans' benefits after the wars. It is clear that their powers and influence were formidable.

In many cases, Indian agents were persons of intelligence and integrity. For example, the anti-potlatch provisions in the *Indian Act* after 1884 were often thwarted by the agents themselves, as many regarded the prohibition as misguided and harmful. In the same way, Indian agents, along with the farm instructors, were from the beginning the most vociferous in calling for an end to certain aspects of Hayter Reed's absurd agriculture policy of transforming Indians into simple peasant farmers by forcing them to use hand implements instead of machinery. Many were courageous in allowing Indians to use machinery to harvest their crops, despite the career risks this entailed.[102]

By the same token, however, some Indian agents were petty despots who seemed to enjoy wielding enormous power over the remnants of once powerful Aboriginal nations. While much of their apparent disrespect can be attributed to the profound cultural differences between them and the Indian nations they were supervising, it is nonetheless clear that the Indian affairs branch often seemed to attract persons particularly imbued with the zeal associated with the strict morality and social Darwinism exhibited by deputy superintendents general Hayter Reed and Duncan Campbell Scott.

The condescending attitudes of many agents seemed to be accurately reflected in the following observation by William Graham, a long-time prairie agent and one who was much feared and complained about:

> However, I must say, taking everything into consideration, the Indians were not bad, generally speaking. They did not thoroughly understand everything that was being done for them and were more or less suspicious by nature. The wonder is that there was not more trouble than there was.[103]

Following the return of veterans after the Second World War, Indian agents and other Indian affairs officials found themselves confronted increasingly by challenges to their authority and influence from activists. Many of the additional powers given to agents following the war were precisely to enable them to maintain their local authority. Beginning in the 1960s and at the initial insistence of the Walpole Island Band in Ontario, Indian agents began to be removed from reserves across Canada. The position no longer exists in the department of Indian affairs.

9.12 Indian Voting Rights

After Confederation, provincial voter eligibility requirements determined who could vote in federal elections and generally involved property ownership provisions that reserve-based Indians could not meet unless they enfranchised. In 1885, however, the right to vote in federal elections was extended to Indians in eastern Canada; eligibility included male Indians who met the qualification of occupying real property worth at least $50. For these purposes, reserve land held individually through location tickets would qualify.

Indians in western Canada were not allowed to vote, however, because, in the words of the minister of Indian affairs of the day, David Mills, that would have allowed them to go "from a scalping party to the polls".[104] The legislation granting the vote to eastern Indians was eventually repealed in 1898, thereby making all Indians ineligible to vote federally, since provincial laws once again governed the issue.

The First World War and the large number of Indians who enlisted altered the situation, however. Thus, in 1917 Indians on active military service were permitted to vote in federal elections, and in 1920 the federal vote was restored to two classes of Indians: those who lived off-reserve; and those (on- or off-reserve) who had served in the Canadian army, navy or air force in the First World War.

In 1944, during the Second World War, the federal government extended the federal franchise once again to Indians (on- or off-reserve) who had served in the war and to their spouses. In 1950, the federal franchise was extended further to on-reserve Indians, but only to those who waived their *Indian Act* tax-exempt status regarding personal property (which would have made them liable for income tax). In 1960, the federal franchise was finally extended without qualification to all Indians.

When the provinces dropped the property qualification and adopted universal male suffrage in the late nineteenth and early twentieth century, many provinces passed legislation explicitly to exclude Indians.[105] The provincial franchise was then re-extended to Indians at different times: British Columbia in 1949; Manitoba in 1952; Ontario in 1954; Saskatchewan in 1960; Prince Edward Island and New Brunswick in 1963; Alberta in 1965; and Quebec in

1969. Indian people in Nova Scotia were apparently never prevented from voting in provincial elections after the adoption of universal male suffrage. Newfoundland did not enter Confederation until 1949 and when it did, agreement was reached with the federal government that neither government would recognize Aboriginal people as status Indians under the *Indian Act*. Indeed, until the federal government recognized the Miawpukek Band of Conne River in 1984, there were no status Indians in the province, so the question of Indian people voting in provincial elections never arose.

Inuit were excluded from the federal franchise in 1934 but had the vote restored to them without qualification in 1950. Except for those who had identified themselves as Indians and lived on reserves as part of an Indian community, Métis people had always been considered citizens and were eligible to vote in both provincial and federal elections (so long as they met the other criteria, such as possession of property).

9.13 Indian Women

If Indian people generally can be said to have been disadvantaged by the unfair and discriminatory provisions of the *Indian Act*, Indian women have been doubly disadvantaged. This is particularly so, for example, with regard to discriminatory provisions on land surrender, wills, band elections, Indian status, band membership and enfranchisement. The Indian status and band membership system is discussed in the next section. The lingering effects of this early and sustained assault on the ability of Indian women to be recognized as 'Indian' and to live in recognized Indian communities continue to be experienced by many Indian women and their children today.

As described earlier, the first enfranchisement legislation, the *Gradual Civilization Act*, enabled any male Indian who met the qualifications to be enfranchised. His wife and children were automatically enfranchised with him, irrespective of their wishes in the matter. Unlike the husband, the wife received no allotment of reserve land upon being enfranchised. When an enfranchised man died, the land passed to the children in fee simple. The widow could regain Indian status and band membership only by marrying another Indian man.

In 1869, the *Gradual Enfranchisement Act* continued these enfranchisement provisions and added to them by providing that an enfranchised man could draw up a will leaving his land to his children – but not to his wife. By this legislation, Indian women were also denied the right to vote in band council elections. This prohibition on participation in band political matters continued through successive versions of the *Indian Act* until 1951, well after non-Indian women in Canada had acquired the right to vote in Canadian elections.

The *Gradual Enfranchisement Act* was the first federal legislation to impose serious consequences on an Indian woman who married a non-Indian. Unlike the case of an Indian man marrying out – whose non-Indian wife and children would

acquire Indian status – she would lose Indian status, and any children of the marriage would never have it. These provisions were carried forward into the first *Indian Act* in 1876 and were maintained until 1985. In the same vein, the 1876 *Indian Act* carried the Victorian emphasis on male superiority to new extremes, providing that only Indian men could vote in reserve land surrender decisions.

Amendments to the *Indian Act* in 1884 permitted any male Indian holding reserve land by location ticket to draw up a will. He could bequeath his property to anyone in his family, including his wife. However, in order for her to receive anything she had to have been living with him at his death and be "of good moral character" as determined by federal authorities. No Indian man inheriting property by will needed to meet any such criteria.

Further amendments in 1920 removed an important band council power and gave it to the superintendent general. Before that, band councils had been able to decide whether an Indian woman who had lost Indian status through marrying out could continue to receive treaty annuity payments or whether she would be given a lump sum settlement. Often a band would continue to allow women who had married out to receive treaty payments and in this way retain a link to their home communities.

Thus, while such women would no longer have Indian status as such, through band council permission they could retain informal band membership. The band and federal authorities would thus overlook their lack of status.[106] The 1951 revision of the *Indian Act*, discussed later in this chapter, went further than previous legislation in attempting to sever completely the connection between Indian women who married out and their reserve communities. A solution had to be found to the situation of Indian women who had married out but had then been deserted or widowed by their non-Indian husbands. These women did not have legal status as Indians, nor were they considered non-Indian in the same way as enfranchised women were. Rather than allow them to regain Indian status and formal band membership and with them an Indian community to go back to, federal authorities decided to provide for their involuntary enfranchisement upon marriage. They would thus lose any claim to Indian status or to formal or informal band membership.

Until then, these women had usually managed to continue to receive their treaty annuities and, in many cases, even to continue to reside in their reserve community. Before the 1951 revision it had even been the practice in some Indian agencies to issue informal identity cards, referred to as 'red tickets', to these women to identify them as entitled to share in treaty moneys. The director of the Indian registration and band list directorate at DIAND describes the system as follows:

> It would have been a card that would have been issued to a woman who had married a non-Indian and lost her Indian status and band membership, and originally it would have been red [the colour] to

> indicate that she was no longer a member of the band but was entitled to collect treaty at the time the treaty payment was made.[107]

With the 1951 enfranchisement provisions, all that changed. Henceforth, an Indian woman would not only lose status but would also be enfranchised as of the date of her marriage to the non-Indian man.

Enfranchisement had immediate and serious consequences. Not only did it mean automatic loss of status and band membership, and with it the forced sale or disposal of any reserve lands she might have held; it also meant she would be paid out immediately for her share of any treaty moneys to which her band might have been entitled as well as a share of the capital and revenue moneys held by the federal government for the band. These provisions were later upheld against an equality challenge under the *Canadian Bill of Rights*, despite their characterization by Mr. Justice Laskin in the *Lavell* and *Bedard* cases as "statutory excommunication" and "statutory banishment".[108]

Red ticket women who had lost status before 1951 were dealt with in a later amendment to the *Indian Act*. They were paid a lump sum and put in the same position as Indian women who married out after 1951.

The children of these mixed marriages were not mentioned in the 1951 *Indian Act*. For a few years such children were erroneously enfranchised along with their mothers. Because there had been no legal basis for their enfranchisement, in 1956 further *Indian Act* amendments restored their Indian status. However, the same amendments authorized the issuing of orders that all or any of the children of an enfranchised woman also be enfranchised with her. This language was inserted to correct the earlier problem and to make it possible to enfranchise such children in the future. In practice, the off-reserve children of a woman enfranchised under these provisions would usually also be enfranchised, while her children living on-reserve would generally be permitted to retain their Indian status.

Thus, the discriminatory features of the *Indian Act* regarding Indian women who married out were actually strengthened following the Second World War, despite trends toward greater egalitarianism in the rest of Canadian society. It is clear in retrospect that a double standard was at work, since Indian men could not be enfranchised involuntarily after 1951 except through a stringent judicial inquiry procedure in the revised *Indian Act*. The figures for enfranchisement between 1955 and 1975 (when compulsory enfranchisements of women were ended administratively) demonstrate this, with nearly five times as many persons enfranchised compulsorily as enfranchised voluntarily.[109] Thus, the number of enfranchisements, which had been relatively small in the century following passage of the *Gradual Civilization Act*, jumped markedly after 1951.

Today many of those women and their children have been returned to status and to band membership by the 1985 amendments to the *Indian Act* contained

in Bill C-31. However, there are still large numbers of non-status Indians, the victims of earlier loss of status or of the enfranchisement provisions, who have not been able to meet the new criteria set out in the current version of the act.

At the same time, many women and their children who have recovered Indian status as a result of the 1985 amendments have been unable to secure band membership. This is because those amendments gave bands the power to control their own membership. Some bands that control their membership have refused to allow these 'Bill C-31 Indians' to rejoin the band. In other cases, people who have managed to acquire band membership have been refused residency rights on the reserve by the band council. Thus, they may now have status and band membership but be unable to return to the community or to vote in band council elections.

Moreover, the children of Indian women restored to status under the new rules in Bill C-31 generally fall into the section 6(2) category of status Indian. As discussed in the next section, this means they are inherently disadvantaged in terms of their ability to transmit Indian status through marriage.

In these and other ways, many Indian women and their descendants continue to experience the lingering effects of the history of discriminatory provisions in the *Indian Act*.

9.14 Indian Status and Band Membership

The *Gradual Enfranchisement Act* of 1869 was the first law denying Indian status to an Indian woman who married out and preventing her children from acquiring status. Carried forward into the first *Indian Act* in 1876, these provisions were maintained until 1985.

Recognition as 'Indian' in Canadian law often had nothing to do with whether a person was actually of Indian ancestry. Many anomalies and injustices occurred over the years in this regard. For example, a woman of non-Indian ancestry would be recognized as Indian and granted Indian status upon marriage to an Indian man, but an Indian woman who married a man without Indian status would lose legal recognition as Indian. Moreover, for historical reasons, many persons of Indian ancestry were not recognized as being Indians in law and were, accordingly, denied Indian status.

The status and band membership provisions, although heavily slanted against Indian women, nonetheless worked a hardship on Indians of both sexes over the years. For example, in 1887 the superintendent general was given the power to determine who was or was not a member of a band, with his decision on the matter appealable only to the governor in council. This power would ensure that those deemed ineligible for band membership could be removed more easily from a reserve community by federal authorities.[110] This provision was retained through to the 1951 amendments, when the power passed to an

official known under the *Indian Act* as the registrar. Although *Indian Act* bands have had delegated authority since 1985 to determine their own membership, they do not have the authority to grant Indian status in law – that remains with federal authorities.

The federal government, which normally funds bands through a formula based on the number of status Indian band members, does not generally provide funds to bands for persons who are not status Indians. Bands that allow people without Indian status to become band members are therefore penalized financially, since they then have to provide housing and other services to these new band members without offsetting federal payments. This is a strong disincentive to many bands, since most are poor and utterly dependent on the federal government for their funding. This means that large numbers of people of Indian ancestry who may have a connection to a band are unable to acquire either band membership or reserve residency.

In 1920 the superintendent general was given the authority to decide whether an Indian woman who lost status upon marrying out would receive her annuity or a lump sum settlement. This led to many problems, including that of Indian women who lost status but were then widowed or deserted; these women were left in a precarious and doubtful situation – neither Indian nor non-Indian in Canadian law.

During the 1946-48 parliamentary hearings on revising the *Indian Act* (discussed in more detail later), federal officials were unable to explain whether or to what extent they planned remedial action. As it turned out, the response of federal officials dealt with the situation of these women, but also served to confirm the continuing assimilative thrust of federal Indian policy. In a letter to the joint committee examining the issues, Indian affairs officials were candid regarding their motivations in the case of Indian women who married non-Indian men:

> ...by the alteration of the definition of Indian by the Statute of 1876 the Dominion very substantially reduced the number of people for whose welfare it was responsible and by that action passed the responsibility on to the provinces for thousands of people, who, but for the statute of 1876, would have been federal responsibility for all time.[111]

The 1951 version of the *Indian Act* allowed such women to be enfranchised involuntarily upon marrying out. Thus, their status was left in no doubt: under no circumstances would they be considered 'Indian' unless they subsequently remarried a status Indian man.

Although the current *Indian Act* contains no enfranchisement provisions, the status rules, as modified in 1985 by Bill C-31, are still highly problematic. Not only are they extremely complex, but like their historical predecessors, they appear to continue the policy of assimilation in disguised but strengthened form. This is because of the distinctions drawn between two classes of Indians

under the post-1985 rules. We discuss this issue in more detail in Volume 4, Chapter 2.

Subsection 6(1) of the *Indian Act* accords status to persons whose parents are or were (if they are no longer alive) defined as 'Indian' under section 6 of the act. Subsection 6(2) accords status to persons with one parent who is or was an Indian under section 6. All those who were status Indians when the new rules came into effect in 1985 are referred to as 6(1) status Indians. This includes non-Indian women who were married to Indian men at that time.

The difficulties arise for the children and grandchildren of today's 6(1) and 6(2) status Indians. For the grandchildren of the present generation of 6(1) and 6(2) Indians, the manner in which their parents and grandparents acquired status is an important determinant of whether the grandchildren have Indian status themselves. The net result of the new rules is that by the third generation, the effects of the 6(1)/6(2) distinction will be felt most clearly. Figure 9.1 shows how transmission of status works under the new rules.[112]

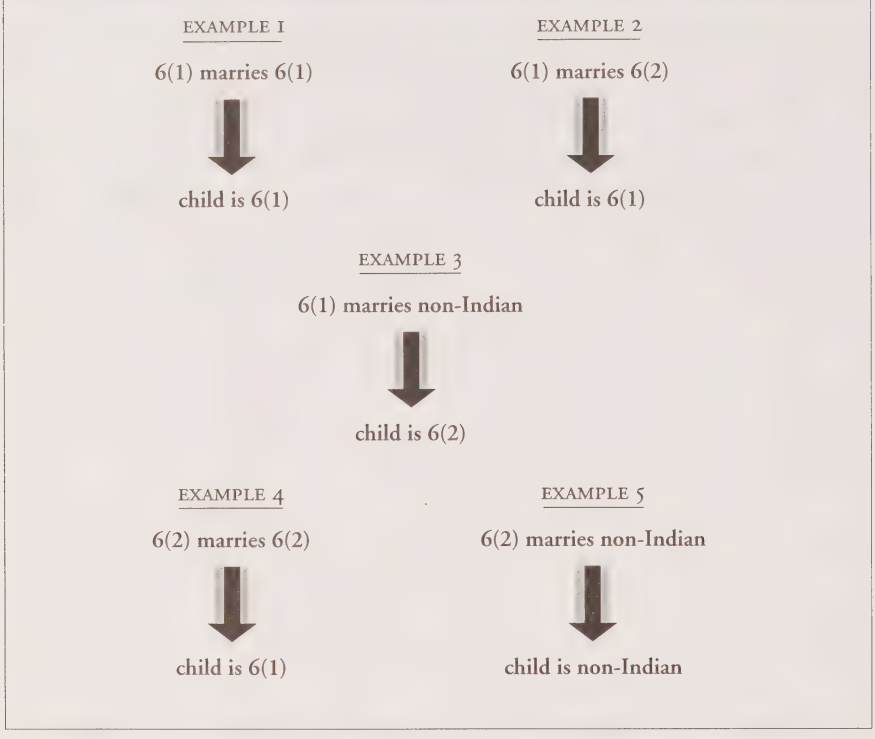
Thus, comparing examples 3 and 5, it is clear that the children of a 6(2) parent are penalized immediately if the 6(2) parent marries out, while the children of 6(1) parents are not. Figure 9.2 extends the effects of the 6(1)/6(2) difference in examples 3 and 5 to illustrate this.

It is clear that the 6(1) parent has an advantage in terms of time if he or she marries out, since the child will still be a status Indian and will have the chance to marry another status Indian, 6(1) or 6(2), in order to retain Indian status for the children of that marriage. The 6(2) parent is not so fortunate, and may by marrying out cause status to be lost within the first generation. Thus, who the children marry is crucial in determining whether status is passed on to future generations, since there is a definite disadvantage to being in the 6(2) category. Nor should it be forgotten that this has very little to do with actual Indian ancestry, since the new rules are arbitrary and are built on the arbitrary distinctions that have come down through the history of the *Indian Act* and its predecessors.

An example using siblings shows the unfairness of the new rules clearly. A status Indian brother and his status Indian sister both married non-Indians before the new rules came into effect in 1985. The children of the sister would fall into the 6(2) category at the outset, because they would only have one parent (the mother) who is a status Indian under section 6 of the current act. The children of the brother who married out before the 1985 amendments would fall into the 6(1) category, however, since both parents would be status Indians under section 6 (the non-Indian mother having acquired status under the pre-1985 rules). The brother's children would therefore start off with an advantage over their 6(2) cousins in terms of status transmission.

This has nothing to do with Indian ancestry, since the 6(1) and 6(2) children discussed in this example have exactly the same degree of Indian ancestry.

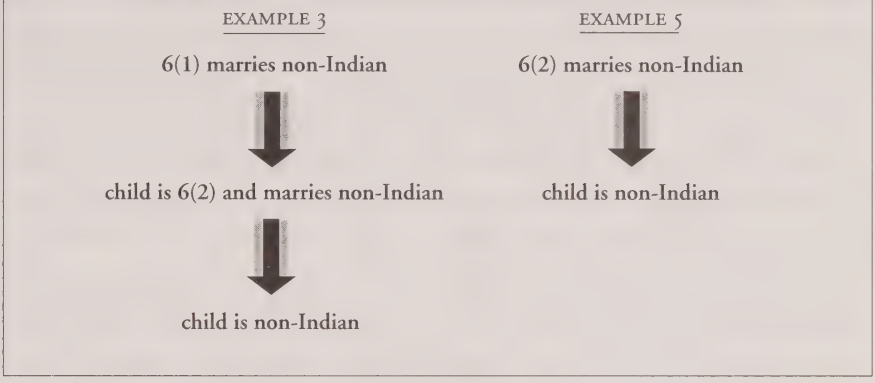
FIGURE 9.1



Each has one parent of Indian ancestry and one of non-Indian ancestry. The fact that the children of the status Indian man who married out acquired status, while the children of the status Indian woman who married out did not, is at the root of this 6(1)/6(2) distinction. Thus, the post-1985 status rules continue to discriminate as the pre-1985 rules did, except that the discriminatory effects are postponed until the subsequent generations.

Moreover, the increase in the number of persons with Indian status through Bill C-31 was a one-time event. Demographic trends show that this increase will begin to reverse itself within a few generations and that the number of status Indians will likely decline drastically. Thus, given the present rate at which status Indians marry outside the 6(1) or 6(2) category, it is predicted that, in time, many Indian communities will no longer be populated by people who fall within either the 6(1) or the 6(2) category. Material circulated by the Whispering Pines Indian Band of British Columbia in 1989 confirms this observation in more graphic terms:

FIGURE 9.2



> The Whispering Pines Indian Band is located about 25 miles outside Kamloops. Since this is where the reserve is situated, our members associate the majority of time with non-status people.... [M]arriages are 90 per cent (approx.) to non-status people. For two generations already, marriages have been this way, so the chances of children from these marriages, in turn, marrying status Indians are very slim....
>
> Actually the whole section in Bill C-31 on status has affected all Bands in Canada. The Bill was written to eliminate discrimination in the Indian Act. What it has really done is found a way to eliminate status Indians all together.[113]

Thus, it can be predicted that in future there may be bands on reserves with no status Indian members.[114] They will have effectively have been assimilated for legal purposes into provincial populations. Historical assimilation goals will have been reached, and the federal government will have been relieved of its constitutional obligation of protection, since there will no longer be any legal 'Indians' left to protect.

10. Post-War Indian Policy Reform: Everything Old Is New Again

To return to the evolution of Indian policy and the *Indian Act*, by the early twentieth century policy development had entered a new phase, as Canada attempted to come to terms with the impact of massive immigration and the effects of the First World War. Although the possibility of assimilating Indians quickly into the mainstream of a changing and growing Canadian population seemed more

remote than ever, the government nevertheless introduced many oppressive measures designed to promote assimilation and enhance the authority of Indian affairs officials in daily reserve life.

It soon became evident, however, that past policies of civilization and assimilation had failed to eliminate the collective identity of Indians. This sense of failure was compounded by the diversion of official attention from Indian policy during the depression and the war years. Far from vanishing through enfranchisement and assimilation, Indians were increasing in number, and existing reserves, with their limited resources, were less and less able to support this growth. The Indian affairs bureaucracy had no policies other than civilization and assimilation with which to cope with the continuing presence of Indian communities and their burgeoning populations. By the 1940s it had become abundantly clear that Indian affairs were in disarray.

The end of the Second World War and the creation of the United Nations unleashed a national mood of egalitarianism and a growing interest in individual human rights. This national mood coincided with public awareness of the strong contribution of Indian servicemen to the Canadian war effort, and public interest in Indian issues grew. Many called for a royal commission to review and revise the *Indian Act* and put an end to what was seen increasingly as discriminatory legislation.

In response, the federal government established a joint committee of the Senate and the House of Commons to examine the general administration of Indian affairs. Its mandate included an examination of treaty rights and obligations; band membership issues; taxation of Indians; enfranchisement; Indian voting rights; encroachment on Indian reserve lands; Indian day and residential schools; and any other matter having to do with Indian social and economic issues that ought to find a place in a new *Indian Act*. The failure of the mandate to refer to issues of importance to Indians, such as self-government and the limited power of band councils, reveals the committee's egalitarian thrust. Committee members came to the proceedings with a decided bent in this direction. The co-chairman, for example, commented as follows early in the first year of hearings:

> And I believe that it is a purpose of this committee to recommend eventually some means whereby Indians have rights and obligations equal to those of all other Canadians. There should be no difference in my mind, or anybody else's mind, as to what we are, because we are all Canadians.[115]

The challenge for the Joint Committee would be to recommend equality without forcing Indians to abandon their heritage and collective and constitutional rights.

At the outset, committee members decided as a matter of policy to hear first and foremost from government officials and experts, particularly Indian branch officials. Early on, however, they made an exception by hearing Andrew

Paull, then president of the newly formed North American Indian Brotherhood and a long-time Indian rights activist in British Columbia. His testimony was dramatic, for rarely had articulate Indian leaders been given a chance to be heard on the national stage before. Noting that the Joint Committee was not the independent royal commission that Indians and others had been calling for, Paull also emphasized the absence of Indian representatives on the committee and the fact that its mandate did not include the issues of greatest concern to Indians.

Moreover, with respect to the guiding philosophy for Indian policy, Paull challenged the Joint Committee to decide from which perspective it would deal with Indians: as wards or citizens. He also focused on Canada's abandonment of the nation-to-nation relationship of equality embodied by the treaties and on the lack of meaningful self-government on reserves. In Paull's view, the answers to these questions would determine the committee's ultimate response to other issues surrounding the overall relationship between Indians and the federal government. In short, he challenged committee members to abandon the historical assumptions underlying Canadian Indian policy in favour of a model more in harmony with Indian aspirations.

Paull's brief included several recommendations that have since become familiar: ending the Indian branch's power to determine band membership; continuing the taxation exemption; abolishing denominational schools on-reserve; decentralizing the Indian branch and generally hiring more Indians in administrative capacities; empowering band councils to act as local governments, including the power to police reserves; and granting Indians the right to vote in federal elections, with the possibility of electing their own Indian members to the House of Commons. The most important thing in Paull's view, however, was to give Indians a greater degree of control over their own lives, free of government interference.

Following Paull's testimony, a motion to permit five Indian observers drawn from across Canada to monitor committee sessions was defeated, although Indian witnesses and briefs were welcomed. This was the first time in Canadian history that the federal government made any systematic effort to consult with Indians. Indians attempted to make themselves heard. Sometimes this was with great difficulty, as it appears that on some reserves the Indian branch refused access to band funds for this purpose. As a result, most Indian evidence was in the form of letters to the committee, although several Indian bands and associations did manage to send representatives to testify on their behalf.

Indian submissions were varied, covering a broad range of issues and expressing a variety of political philosophies. Many focused on the nation-to-nation relationship and on the sanctity of treaties, criticizing the *Indian Act* regime. Others seemed to accept the general legitimacy of the *Indian Act* but called for increased band council powers. Still others appeared to accept the act to a greater extent and focused on incremental changes to particular provisions.

The range of views expressed makes it impossible to speak of a single Indian position. There was a consistent focus, however, on the political relationship between Indians and the federal government as reflected in issues such as respect for treaties and Aboriginal rights and an end to the domination of reserve life by government bureaucrats. On one issue there was virtual unanimity: the need for a greater degree of local autonomy and self-government.

Diamond Jenness, an anthropologist and senior federal civil servant, took an entirely different approach, however, and one that was more in keeping with historical assimilation policy. In retrospect, it is clear that he and like-minded non-Indian witnesses carried the day. His testimony focused on the reserve system as the aspect of Indian policy that was the greatest impediment to Indians attaining equality with non-Indians in Canadian society. Jenness proposed a 25-year plan "to abolish, gradually but rapidly, the separate political and social status of Indians (and Eskimos); to enfranchise them and merge them into the rest of the population on an equal footing".[116] The plan called for placing Indian children in provincial schools; delivering social services to Indians in the ordinary way, primarily by the provinces; having a committee study reserves across Canada with a view to abolishing them and enfranchising the inhabitants; and improving education for Indians in the North.

In 1948, giving little indication that it had heard or comprehended the views expressed before it by Indian people and their organizations, and in language reminiscent of the assumptions of an earlier era, the Joint Committee declared with respect to its proposals for reform of the *Indian Act* that "All proposed revisions are designed to make possible the gradual transition of Indians from wardship to citizenship and to help them to advance themselves."[117]

The gulf between the perspectives and philosophies of most of the Indian testimony and those of committee members is startling. It is nothing less than the difference between greater Indian self-government and the revitalized goal of assimilation. It appears that the Joint Committee simply adopted and strengthened certain aspects of historical policies, clothing them in new rhetorical garments.

11. The 1951 *Indian Act* Revision

The present-day *Indian Act* is the result of the major revision that occurred in 1951, following the Joint Committee process. It has been bolstered by a number of incremental amendments since then. Ironically, but in keeping with the tone of the non-Indian testimony to the Joint Committee, it is generally accepted that the net effect of the 1951 revision was to return Canadian Indian legislation to its original form, that of the 1876 *Indian Act*. The 1876 and 1951 versions are very similar in essential respects.

For example, although the number of powers that can be exercised by the minister of Indian affairs and the governor in council was reduced in 1951, their

authority nonetheless remained formidable, with administration of more than half the act being at their discretion. In the current version of the act, nearly 90 provisions give the minister of Indian affairs a range of law-making, quasi-judicial and administrative powers in all-important areas. In addition, another 25 provisions give the governor in council wide powers, including that of making regulations in areas otherwise covered by band council by-law authority.

Expropriation powers were significantly reduced, although where a federal or provincial law authorizes a province, municipality or local authority to expropriate land, the governor in council can still permit reserve lands to be expropriated without band consent. The *Kruger* case, described earlier, offers graphic evidence of the high-handed way this power has sometimes been used. This power is strongly criticized by Indians as a derogation from the Crown duty of protection of their land base and political autonomy.

The 1951 revision also removed the prohibition on traditional dances and appearing in exhibitions and stampedes. Somewhat paradoxically, however, Indians in western Canada still needed official permission to sell their livestock and produce, and this provision remains in the act, although it is no longer applied.

Importantly, the definition of Indian status and control of band membership remained in non-Indian hands, and the definitions were actually tightened up for financial reasons by introducing an Indian register as a centralized record of those entitled to registration as an Indian (and to the receipt of federal benefits). This enabled federal officials to keep track of reserve populations and to remove non-status Indians and others. Before this, federal officials had kept various records, such as treaty and interest distribution lists, estates administration, band membership and 'half-breed' scrip records, but had attempted no comprehensive listing of Indians.

The mention of "Indian blood", which had been a feature of the act's definition section since 1876, was replaced by the notion of registration, with a strong bias in favour of descent through the male line. At the time the new registration system was introduced, the practice according to the provisions of the 1951 *Indian Act* was to use the existing band lists as the new "Indian Register" called for by the act. These lists may have been band fund entitlement lists, treaty pay lists or similar records. Given the relative informality and lack of comprehensive documentation at the time, they were not by any means complete lists of status Indians or of those entitled to legal status as Indians.

The lists were to be posted "in a conspicuous place in the superintendent's office that serves the band", and six months were given for additions, deletions and protests before the band list was finalized as the basis for the Indian register. In addition, a general list of Indians without band affiliations was kept in Ottawa. The registrar could add to or delete names from that list, under his own authority, or from band lists through application of the status rules in the new act.[118]

The names of many people who ought to have been on the band lists or the general list were never added. They may, for example, have been away from the reserve when band lists were posted. In remote places, especially where people still practised a subsistence lifestyle, people could have been away on hunting parties, fishing or on their traplines. Such people were also the least likely to have been able to read in the first place. Some people were opposed to any form of registration, seeing it as a derogation from the historical status of Indian nations. Sometimes, it has been argued, the "conspicuous place" called for in the *Indian Act* was less conspicuous than it ought to have been. In any event, and for whatever reason, many people claim that they or their parents or grandparents were never included on these lists when they should have been and that they were prevented later from obtaining Indian status.[119]

Under the new status rules the definition of Indian was made even more restrictive as far as women were concerned. A good example is the so-called 'double mother' rule in subsection 12(1)(a)(iv), whereby a child lost Indian status at age 21 if his or her mother and grandmother had obtained their own status only through marriage. In short, someone born and raised on a reserve, whose father and grandfather were status Indians, would automatically lose Indian status at the age of 21. Upon loss of status, band membership too would be forfeited, as well as the right to continue to live on the reserve.

The double mother rule applied to all women without Indian status. Thus it included women who might have been enfranchised involuntarily or left off band lists through inadvertence or otherwise, or who were simply unable to qualify under the *Indian Act*, despite being of Indian descent. A good example of the latter situation would obtain at the Mohawk reserve at Akwesasne if the mother and grandmother in question were both from the U.S. side of the reserve. The 21-year-old grandchild would lose Indian status in Canada automatically, even though he or she might be Mohawk by ancestry, language and culture. The legal fiction involved in registration and Indian status becomes evident in such cases.

Voluntary and compulsory enfranchisement were kept in the 1951 revisions, although the compulsory element was weakened: the minister could enfranchise an Indian or a band only upon the advice of a special committee established for that purpose. If the committee found that the Indian or band was qualified and that enfranchisement was desirable, the person or band in question would be deemed to have applied for enfranchisement. According to Indian affairs officials, no band was ever forced to enfranchise through this provision, although the threat was present until enfranchisement was dropped from the *Indian Act* after 1985.

One band, however, did choose to enfranchise as a group using the voluntary enfranchisement procedures in the 1951 *Indian Act*. In 1958 the members of the Michel Band of Alberta voluntarily renounced their Indian status in

law, taking most of their reserve land in individual lots along with the proceeds of the sale of the remaining lands. The enfranchisement of this band solved one set of problems for Indian affairs officials, since it meant that there would no longer be an entity to pursue land claims based on some doubtful reserve land transactions from the past. However, it caused problems for the descendants of the enfranchised band members, many of whom regained status through the 1985 amendments. These people have Indian status but no band and no reserve to return to as a result of a decision taken nearly 40 years ago. They have no standing to pursue land claims, since the government's specific claims policy states that only the chief and council of a band can apply to enter the negotiation process.[120]

Returning to the 1951 *Indian Act*, Indian women on-reserve could now vote and, in that limited way, participate in band political life. In addition, the provision that had prohibited Indian women from voting on land surrenders was amended to permit women to participate on equal terms with men. However, the discriminatory features of the old acts regarding Indian women who married out were actually strengthened in aid of the overall assimilation policy.

The administration of Indian estates was simplified in the 1951 act to bring it more in line with provincial law. However, where Indian women who married out were enfranchised involuntarily, they also lost the right not only to possess reserve land but to inherit it. In such cases, the land would be sold to an 'Indian' and the proceeds forwarded to the enfranchised woman, even if she had divorced the non-Indian man or had been widowed before inheriting the land.

The part of the *Indian Act* incorporating the former *Indian Advancement Act* was dropped, with some elements incorporated into the provisions on band council powers. As before, the minister could impose the elective system on a band (now with two-year terms for chief and council). Band council authority was still limited, but bands that had reached "an advanced stage of development" could acquire additional powers, such as authority to tax local reserve property. The current version continues the limited band council powers but has dropped the requirement that a band be "advanced" before it is permitted to pass local property taxation and business licensing by-laws to generate revenue for band purposes.

The 1951 revision also reinforced the prohibition on Indian intoxication, making it an offence for an Indian to be in possession of intoxicants or to be intoxicated, whether on- or off-reserve. Obviously, this was far more draconian than the alcohol laws applicable to non-Indians. Ultimately, of course, these provisions were struck down by the Supreme Court. They were replaced in 1985 by band council authority to regulate alcohol questions.

One of the most significant changes concerned the new section 87 (now section 88), which incorporated provincial laws of a general nature and made them part of the *Indian Act* legal regime. Thus, whenever a provincial law dealt with a subject not covered by the *Indian Act*, such as child welfare matters,

Parliament would allow the provincial law to apply to Indians on-reserve. Through this route, the provinces made inroads into what was previously a federally protected area. Provincial laws could be prevented from applying only if they were not "laws of general application" in a constitutional sense, if there existed contrary treaty provisions, or if the *Indian Act* or its regulations or by-laws dealt with the same area and conflict arose between the provincial law and the *Indian Act* provision, regulation or by-law.

Section 88 continues in today's version of the act, giving the provinces law-making powers in areas that they would not normally be able to deal with in regard to Indians. This provision is the source of much criticism from Indians and of accusations that the federal government has almost completely abandoned its role of protecting Indian autonomy from the provinces.

12. The Modern Era: Contrasting Assumptions and Models of Self-Government

From the 1950s on, Aboriginal policy development in Canada entered a confusing stage as the continuing policies of civilization and assimilation came into increasing conflict with the desire of Indian nations to resume control over social and political processes in their own communities and with newer ideas derived from the evolution of the international indigenous movement. Thus, until 1969, assimilation was still the dominant federal policy, although by then the federal government was using terms such as 'equality' and 'citizenship' instead of the more brutal language of the earlier era. After 1969 and the disastrous white paper, described earlier in this chapter, Canada seems to have adopted a new approach and is moving toward a policy based on true nation-to-nation negotiations. However, as discussed in this section, it is less clear that the old ideas of assimilation are dead.

Following the 1951 revision of the *Indian Act*, a number of the other recommendations of the 1946-48 Joint Committee were implemented during the 1950s. For example, a co-operative effort was undertaken with the provinces to extend provincial services to Indians. Since then, of course, it has become accepted that Indians are provincial residents for purposes of service delivery. However, it also appears that the federal government has continued to accept the desirability and inevitability of Indians becoming full-fledged provincial residents.

In 1959 the federal government struck another joint parliamentary committee to examine the *Indian Act*. Indian affairs officials prepared a report, *A Review of Activities, 1948-1958*, and submitted it to the Joint Committee. It outlined progress since the last joint committee report of the 1940s. After noting the various initiatives in progress with the provinces on sharing or transferring

programs, the document indicated that, by 1959, 344 bands were using the elective system under the *Indian Act*, and 22 bands had been given authority to raise and spend band funds. More interestingly, enfranchisement figures were given that showed a vastly increased number of forced enfranchisements since 1951. For example, in the entire period between 1876 and 1948 there were 4,102 enfranchisements, while an additional 6,301 occurred after the restrictive provisions of the new act were introduced in 1951.[121] The figure for involuntary enfranchisements would continue to rise until 1975, when the practice was suspended. Although taken as a sign of progress, these figures reflect for the most part the effect of the marriage provisions, whereby Indian women who married out and their descendants lost status through automatic enfranchisement.

The 1959 Joint Committee hearings repeated to a considerable extent those of the previous decade. Thus, virtually all Indian submissions, whether from Indian associations or individual band councils, reiterated Indian concerns about reserve conditions, administrative red tape, land claims, violation of treaties, and unsettled Aboriginal land title issues. For Indians, the solutions also remained as they had been presented to the earlier committee. In particular, Indian submissions stressed the continuing need for enhanced powers of self-government and less Indian branch interference in local reserve life.

Nonetheless, as with the earlier committee, that of 1959-61 came down firmly in favour of continuing on the path of preparing Indians for full participation in Canadian society, without distinction based on their Indian descent and their special constitutional status. In short, Indians were not seen as members of more or less permanent and distinct political units within the Canadian federation. Rather, they were considered members of a disadvantaged racial minority, to be encouraged and helped to leave their inferior status behind through social and economic evolution. Reserves and Indian status were transitional devices on the road to absorption within mainstream society. Assimilation was still the goal, although it was now solidly recast in the more felicitous language of citizenship and equality:

> The time is now fast approaching when the Indian people can assume the responsibility and accept the benefit of full participation as Canadian citizens. Your Committee has kept this in mind in presenting its recommendations which are designed to provide sufficient flexibility to meet the varying stages of development of the Indians during the transition period.[122]

The Joint Committee reported in 1961, recommending, among other things, greater equality of opportunity and access to services for Indians, the transfer of education and social services to the provinces, the imposition of taxes on reserve, more social research, more community planning and development studies, a formal federal-provincial conference to begin the transfer of social services to

the provinces, the establishment of a claims commission, Indian advisory boards at all levels, and the striking of another parliamentary committee to investigate Indian conditions in seven years' time. Only one significant *Indian Act* amendment came out of this exercise: in 1961 compulsory enfranchisement for men and for bands was finally eliminated.

If this represented one model – a continuing emphasis on assimilation – the vision contained in the comprehensive Hawthorn report on Indian conditions in Canada represented what was for non-Indian reformers a radical new vision.[123] This 1966 report confirmed what had by then become obvious: Indians and their reserve communities had not been assimilated, although their "lonely splendour as isolated federal islands surrounded by provincial territory" had begun by then to be overtaken by the provincially administered welfare state emerging in Canada. Indian communities were actually increasing in population, so much so that many Indians were forced to leave the reserves for the cities. Both trends have continued. In 1967, nearly 80 per cent of status Indians lived on their reserves; today less than 60 per cent do.

The solution to the Indian problem proposed by the Hawthorn report was to abandon assimilation as a formal goal of Indian policy. Instead, and in keeping with its view that Indian communities were already part of the provinces in a jurisdictional as well as a physical sense, it proposed building on the band council system to prepare reserve communities to become provincial municipalities. The authors were sceptical about a wide-ranging Indian right of self-government, concluding that the "best Indians can hope for is the limited control and autonomy available to small communities within a larger society, plus sympathetic consideration of their common and special needs by higher levels of government."[124]

The Hawthorn report did not accept the inevitability or desirability of individual assimilation and proposed instead the concept of "citizens plus" whereby, in addition to the ordinary rights and benefits to which all Canadians have access, the special rights of Indians as "charter members of the Canadian community" would be respected. The "charter rights" of Indians were traced back to the bargain made by the historical tribal nations: in exchange for allowing non-Indian settlement of the lands, Indians would be guaranteed Crown protection and special status within the imperial system. Earlier in this chapter we described this view in terms of the imperial tripartite system, developed on the basis of the Crown undertaking in the *Royal Proclamation of 1763*.

Thus, the view of the Hawthorn report appears in retrospect to be one of collective absorption of Indians into provincial municipal structures. Indians would retain certain federal protections over their lands and would remain Indians. Nonetheless, Indians were expected to develop new and permanent links with the provinces as the historical link to the federal Crown was gradually severed in favour of what the authors believed was the inevitability of greater provincial involvement in reserve matters through program and service delivery.

Indians did not see this process as inevitable, however, and they made this clear to the next important parliamentary committee struck to examine Indian issues – the 1983 Special Committee on Indian Self-Government, chaired by Keith Penner, MP.[125] In between the Hawthorn report and the Penner report, Canada patriated its constitution from Great Britain, adding the *Constitution Act, 1982* and its recognition and affirmation of existing Aboriginal and treaty rights in section 35.

This was the context in which Indian nations formulated their views to the Penner committee. What they wanted, and what the Penner committee recommended, was the immediate recognition of Indian First Nations as a distinct, constitutionally protected order of government within Canada and with a full range of government powers. In short, their vision was a return to that of the imperial tripartite system: a status equal to that of the colonies (now provinces), with the federal Crown in the role of protector originally assumed by imperial authorities.

Thus, the Penner report proposed an active and protective federal role to recreate the original partnership that Indians have never ceased to call for. As the protector and guarantor of Indian self-government, the federal Crown would pass legislation that under normal constitutional paramountcy rules would oust the provinces from regulating anything to do with "Indians, and Lands reserved for the Indians" under section 91(24) of the *Constitution Act, 1867*. Having secured a space in which to legislate exclusively for Indians, Parliament would withdraw its laws to allow the laws of federally recognized self-governing Indian First Nations to regulate matters occurring on Indian reserves.

Ultimately, the Penner committee saw Indian First Nations as equivalent to provinces. Thus, in the same way that provinces are immune from each other's law-making powers, Indian First Nations laws and provincial laws would have had no effect on each other. In the event of conflict, federal laws in the same areas would be paramount over Indian First Nations laws, as is the case with provincial laws. The federal government would support Indian First Nations programs, services and operations through a system of grants like those available to the provinces under the rules of fiscal federalism. Eventually, the whole arrangement would be entrenched in the constitution.

Neither the federal government nor the provincial governments endorsed the approach of the Penner report. Instead, in recent years they have supported legislation like the *Cree-Naskapi (of Quebec) Act*, passed by Parliament in 1984, conferring a form of delegated self-government on the Cree and Naskapi peoples of Quebec.[126] These powers, like those conferred subsequently on the Sechelt Band by the 1986 *Sechelt Indian Band Self-Government Act*,[127] resemble the municipal-style powers that the Hawthorn report saw Indian reserve communities exercising. They are most definitely not the wider powers that Indians have been seeking, which would restore them to the self-governing status they enjoyed before the *Gradual Enfranchisement Act* of 1869.

In this vein, the federal government formally adopted a Hawthorn-style municipal approach in the Community-Based Self-Government Policy of 1986. With the exception of the Yukon self-government agreements, this policy has not been a successful one. While the 1992 Charlottetown Accord, had it been adopted, would have seen constitutional recognition of Aboriginal governments as a third order within the Canadian federation, it is less clear that the powers that would have been available to Aboriginal governments would have embraced the same range of law-making authority available to the provinces. Thus, it seems clear that there is a certain continuing reluctance on the part of federal and provincial governments to embrace fully the vision of Indian nations as a true third order as envisaged by the Penner report.

13. Conclusion

In the twentieth century as in the nineteenth, it is apparent that Indian and non-Indian perspectives on the fundamental issue of the place of Indians within the Canadian federation remain to be reconciled. Although massive attempts have been made in past decades to carve out a space within which Indian self-governing powers might operate in many ways in a renewed Canadian federation, and to repeat our earlier observations about the formulation of Indian policy more generally, it has all too often been a dialogue of the deaf – neither side has heard or fully comprehended the other. Aboriginal and non-Aboriginal people, operating from the different cultural perspectives highlighted in the first seven chapters of this volume, often do not appear to be speaking the same language when they sit around the negotiating table to discuss self-government and constitutional issues.

In many ways, this difference in perspectives is captured by the way fundamental issues are typically formulated in the self-government context. For Indians the most common formulation goes as follows: "Show us in terms of international or domestic Canadian constitutional law why your assumption of jurisdiction over Indian tribal nations is justified." For the federal and provincial governments the formulation would more typically be as follows: "Show us precisely how you think your powers – inherent or delegated – will operate in the context of the current division of powers, lands and resources in the Canadian federation."

It is clear that each side starts from fundamentally different assumptions. For Indians, the original assumption that they are partners in the exercise of sharing the land of Canada and in building a society based on areas of exclusive and shared sovereignty has continued almost unabated since the time of the *Royal Proclamation of 1763*. For the federal and provincial governments, which have benefitted from the use and exploitation of the lands and resources of this continent, the assumption seems to be that Indians must make a case for themselves

as entities fit to participate as governments in their own right in the joint enterprise now known as Canada.

It is true, as Tom Siddon, a former minister of Indian affairs, has observed, that there can be no real change within the confines of the *Indian Act.*[128] However, it is equally true that even if the *Indian Act* were repealed, there could be no real change without repeal of the attitudes and assumptions that have made legislation like the *Indian Act* and its precursors possible. A royal commission cannot make laws. It can inform and recommend, however. In that role, we can call attention to the factors, attitudes and continuing assumptions that brought about the *Indian Act* and that continue to prevent progress in moving away from the restrictive *Indian Act* vision.

Those factors are to be found in past assumptions and the shadows they have cast on present attitudes. They must be recognized for what they are and cast away as the useless legacy of destructive doctrines that are as inappropriate now as they were when first conceived. If this review of the foundations of the *Indian Act* has shown these assumptions for what they are, it will have succeeded as the first step in entering a new era of partnership between governments and Indians. Paradoxically, this new partnership is also a very old partnership, indeed, older than the *Indian Act* and what it represents.

In subsequent volumes of our report we outline how we believe the renewed partnership we have called for can be implemented. In Volume 2, Chapter 3 in particular, we return to a discussion of the *Indian Act* and its future in the context of Aboriginal self-government. Before doing so, however, the full range of factors that have led to the present impasse in the relationship have to be addressed. One of the most important of these is the destructive experience for Aboriginal people of the industrial and residential schools that were so prominent a part of the civilizing and assimilation programs described in general terms in this chapter. It is to these schools and to their legacy that we now turn.

Notes

1. Royal Commission on Aboriginal Peoples [RCAP], *Partners in Confederation: Aboriginal Peoples, Self-Government, and the Constitution* (Ottawa: Supply and Services, 1993).

2. *In the matter of a reference as to whether the term "Indians" in head 24 of section 91 of the British North America Act, 1867, includes Eskimo inhabitants of the province of Quebec*, [1939] S.C.R. 104, commonly referred to as *Re Eskimos.* The federal government, however, has explicitly excluded Inuit from the *Indian Act* since the 1951 revisions (S.C. 1951, chapter 29, section 4) and instead delivers federal programs and services to them through the Department of Indian Affairs and Northern Development under its mandate for northern development.

3. See, to this effect, Bradford W. Morse and John Giokas, "Do the Métis fall within section 91(24) of the *Constitution Act, 1867* and, if so, what are the ramifications in 1993?", research study prepared for the Royal Commission on Aboriginal Peoples [RCAP] (1993) and published in *Aboriginal Self-Government: Legal and Constitutional Issues* (RCAP: 1995). For information about RCAP publications and research studies, see *A Note About Sources* at the beginning of this volume.

4. *St. Catharines Milling and Lumber Company* v. *The Queen*, [1887] 13 S.C.R. 577 at 652 per Gwynne J.

5. *Calder* v. *Attorney-General of British Columbia*, [1973] S.C.R. 313 at 395 per Hall J.

6. These constitutional documents are the *Manitoba Act, 1870*, R.S.C. 1985, Appendix II, No. 8; the *Rupert's Land and North-Western Territory Order* (1870), R.S.C. 1985, Appendix II, No. 9; the *British Columbia Terms of Union* (1871), R.S.C. 1985, Appendix II, No. 10; *The Ontario Boundaries Extension Act* (1912), S.C. 1912, chapter 40; *The Quebec Boundaries Extension Act, 1912*, S.C. 1912, chapter 45; and the *Constitution Act, 1930*, R.S.C. 1985, Appendix II, No. 26.

7. The Task Force on Canadian Unity, *A Future Together, Observations and Recommendations* (Ottawa: Supply and Services, 1979), p. 56 [emphasis in original].

8. Department of Indian Affairs and Northern Development [DIAND], *Statement of the Government of Canada on Indian Policy, 1969* (Ottawa: Queen's Printer, 1969) [hereafter, the white paper].

9. Harold Cardinal, *The Unjust Society, The Tragedy of Canada's Indians* (Edmonton: M.G. Hurtig Ltd., 1969), p. 140.

10. Department of Indian Affairs, *Annual Report*, 1870, p. 4, quoted in Wayne Daugherty and Dennis Madill, *Indian Government under Indian Act Legislation 1868-1951* (Ottawa: Research Branch, Department of Indian Affairs and Northern Development, 1980), p. 2.

11. The commissions of inquiry that laid the foundation for Indian policy before Confederation are reviewed and assessed in John Leslie, *Commissions of Inquiry into Indian Affairs in the Canadas, 1828-1858: Evolving a corporate memory for the Indian department* (Ottawa: Indian Affairs and Northern Development, 1985).

    There were six commissions of inquiry into Indian policy between 1828 and 1858, all conducted in response to what was becoming known as the 'Indian problem'. The first report was somewhat rushed and rudimentary and was prepared in 1828 by Major General Darling, military secretary to the governor general, Lord Dalhousie. It covered both Upper and Lower Canada and led to the establishment of the reserve system as official policy.

    The second was prepared by a committee of the Lower Canada Executive Council in 1837 and essentially followed the recommendations of the earlier Darling report. In 1839, the third report was prepared by Justice James Macauley and dealt with conditions in Upper Canada. It too generally supported the reserve and civilization policies of the time.

A committee of the Upper Canada Legislative Assembly prepared the fourth report in response to Lord Durham's report on conditions in the two Canadas, arriving at conclusions similar to those of the preceding report by Justice Macauley. The fifth, and by far the most important, was the 1844 report of Governor General Sir Charles Bagot, which covered both Upper and Lower Canada. Its recommendations gave a direction to Canadian Indian policy that has endured in many respects right up to the present.

A sixth report was prepared in 1858 by Richard Pennefather, civil secretary to the governor general. It too covered both Canadas and was the most thorough report on Indian conditions to that point.

12. The 1969 white paper (cited in note 8) was devised in secret by federal public servants and politicians. Its proposals went completely against recommendations flowing from contemporaneous and wide-ranging consultations with Indian people across Canada, leading to feelings of betrayal. For a detailed examination of the secrecy and apparent duplicity of federal policy making with respect to this initiative, see Sally M. Weaver, *Making Canadian Indian Policy: The Hidden Agenda 1968-70* (Toronto: University of Toronto Press, 1981).

13. *A Survey of the Contemporary Indians of Canada: A Report on Economic, Political, Educational Needs and Policies in Two Volumes*, ed. H.B. Hawthorn (Ottawa: Indian Affairs Branch, 1966), volume 1, p. 344.

14. White paper (cited in note 8), p. 5.

15. In Bill C-31 (1985), the status and band membership provisions were amended to eliminate sex discrimination and to allow bands to control their membership if they wished. However, the basic philosophical premise of that section of the *Indian Act* remained unchanged from when the act was passed originally in 1876. The issue of who is recognized as an 'Indian' and which groups of Indian people are recognized as 'bands' is still under exclusive federal government control. See sections 5-14.3 of the *Indian Act*, R.S.C. 1985, chapter I-5, as amended.

16. Recent years have seen a spate of scholarly revisions of the simplistic and largely contrived story of the clash of 'civilization' and 'savagery' that was put forward by generations of narrow-minded clergymen, politically oriented propagandists and romantic frontier novelists. Two particularly powerful debunkings of these conventional histories are Francis Jennings, *The Invasion of America: Indians, Colonialism, and the Cant of Conquest* (Chapel Hill, N.C.: University of North Carolina Press, 1975); and Robert A. Williams, Jr., *The American Indian in Western Legal Thought, The Discourses of Conquest* (New York: Oxford University Press, 1990).

17. There has been no uniform pattern in Canada for the creation of Indian reserves. Some were set aside by religious orders for converted Indians, some were created as refuges by imperial or colonial authorities for Indians fleeing other areas of Canada, some were created by treaty with the Crown, some were purchased from private individuals or from a colonial or provincial government, others were

created by provincial governments after Confederation, while still others were simply recognized as such by the Crown.

The *Indian Act* itself has no mechanism for the creation of reserves. Rather, new reserves are created or, if already in existence, legally affirmed under the Crown prerogative power. After Confederation, the federal Crown was unable to use its jurisdiction over Indian lands in the *Constitution Act, 1867* to create reserves unilaterally, since after 1867 the land was vested in the provincial Crown under section 109. Joint federal-provincial action was required. The nature and conditions of that joint action are reflected in various federal-provincial agreements and vary somewhat from province to province.

For a fuller discussion of the reserve system, see Richard Bartlett, *Indian Reserves and Aboriginal Lands in Canada: A Homeland* (Saskatoon: University of Saskatchewan Native Law Centre, 1990); and Jack Woodward, *Native Law* (Toronto: Carswell, 1994). See also Chapter 4 in this volume.

18. *R.* v. *Sioui*, [1990] 1 S.C.R. 1025 at 1053.

19. The most accurate text of the Proclamation is provided in Clarence S. Brigham, ed., *British Royal Proclamations Relating to America*, Transactions and Collections of the American Antiquarian Society (Worcester, Mass.: American Antiquarian Society, 1911), volume 12, pp. 212-218. A less accurate version is reproduced in R.S.C. 1985, Appendix II, No. 1. The original text, entered on the Patent Roll for the regnal year 4 George III, is found in the United Kingdom Public Record Office, c. 66/3693 (back of roll). The complete text of the Royal Proclamation is provided in Appendix D at the end of this volume.

20. This formulation first appeared in the seminal case *Cherokee Nation* v. *Georgia*, 30 U.S. (5 Peters) 1 (1831), and has been elaborated and refined ever since by a long and still growing line of court decisions in the United States. Academic commentators are divided on whether the courts have done justice to Indian aspirations through this verbal formula. A relatively positive appraisal is given in Charles F. Wilkinson, *American Indians, Time, and the Law* (New Haven: Yale University Press, 1987). A more negative conclusion has been reached by Russell Lawrence Barsh and James Youngblood Henderson, *The Road: Indian Tribes and Political Liberty* (Berkeley: University of California Press, 1980).

21. No reserve was established in Newfoundland until 1984, since neither the federal nor the provincial government recognized the existence of a status Indian community until the Miawpukek Band of Conne River was declared to be a band by the federal government that year. The Mi'kmaq themselves claim that from 1870 a colonial 'reserve' had existed at Conne River, thereby indicating that they were a recognized Indian community. See Adrian Tanner, John C. Kennedy, Susan McCorquodale and Gordon Inglis, "Aboriginal Peoples and Governance in Newfoundland and Labrador", research study prepared for RCAP (1994).

22. Regarding the creation of Indian reserves under the French regime, see G.F.G. Stanley, "The First Indian 'Reserves' in Canada", *Revue d'histoire de l'Amérique française* 4/2 (September 1950), pp. 168-185. See also note 17.

23. National Archives of Canada [NAC], Record Group 10 [RG10], volume 5, described in Leslie, *Commissions of Inquiry* (cited in note 11), p. 20 and following.

24. NAC RG10, "An address to our Great Father, Sir Peregrine Maitland from the Mississauga Nation residing on the River Credit", 2 January 1827, quoted in Leslie, *Commissions of Inquiry*, p. 16.

25. The Lower Canada Executive Committee; see note 11.

26. *An Act for the protection of the Lands of the Crown in this Province, from trespass and injury*, The Statutes of Upper Canada to the Time of the Union, volume 1 – Public Acts (1839), chapter 15.

27. Alexis de Tocqueville, *Democracy in America*, ed. J.P. Mayer, trans. George Lawrence (New York: Harper & Row, 1969), p. 334.

28. Province of Canada, *Journals of the Legislative Assembly of Canada*, 1844-1845, Appendix EEE, "Report on the Affairs of the Indians in Canada", 20 March 1845, quoted in Leslie, *Commissions of Inquiry* (cited in note), pp. 81-96. See also John Leslie, "The Bagot Commission: Developing a Corporate Memory for the Indian Department", in *Historical Papers 1982*, A Selection from the Papers Presented at the Annual Meeting Held at Ottawa, 1982 (Ottawa: Canadian Historical Association, 1983), pp. 31-52.

29. *An Act respecting the Management of the Indian Lands and Property*, Statutes of the Province of Canada 1860, chapter 151, section 1.

30. *An Act for the better protection of the Lands and Property of the Indians in Lower Canada,* Statutes of the Province of Canada 1850, chapter 42; *An Act for the protection of the Indians in Upper Canada from imposition, and the property occupied or enjoyed by them from trespass and injury*, Statutes of the Province of Canada 1850, chapter 74.

31. *An Act to repeal in part and to amend an Act, intituled, An Act for the better protection of the Lands and property of the Indians in Lower Canada*, Statutes of the Province of Canada 1851, chapter 59, section II.

32. *An Act to amend and consolidate the laws respecting Indians*, S.C. 1876, chapter 18, section 3:

> 3. The term "Indian" means
> *First.* Any male person of Indian blood reputed to belong to a particular band;
> *Secondly.* Any child of such person;
> *Thirdly.* Any woman who is or was lawfully married to such person...

33. Province of Canada, *Journals of the Legislative Assembly of Canada*, Sessional Papers, Appendix 21, "Report of the Special Commissioners..." (Toronto: 1858), quoted in Leslie, *Commissions of Inquiry* (cited in note 11), pp. 129-172.

34. United Kingdom, House of Commons, *Parliamentary Papers*, volume XLIV, no. 595, "Copies or Extracts of Correspondence between the Secretary of State for the Colonies and the Governor General of Canada respecting Alterations in the

Organization of the Indian Department of Canada" (London: 1860), p. 1, quoted in Leslie, *Commissions of Inquiry*, p. 138.

35. Quoted in Leslie, *Commissions of Inquiry*, pp. 143, 144.

36. Interim Report, Richard Pennefather to Governor General Sir Edmund Head, *Parliamentary Papers* (cited in note 34), quoted in Leslie, *Commissions of Inquiry*, p. 138.

37. The net result of these measures in Manitoba was the elimination of any system of communally held Métis land. For a more detailed discussion of Métis issues, see Volume 4, Chapter 5. See also Paul L.A.H. Chartrand, *Manitoba's Métis Settlement Scheme of 1870* (Saskatoon: University of Saskatchewan, Native Law Centre, 1991).

38. *An Act to encourage the gradual Civilization of the Indian Tribes in this Province, and to amend the Laws respecting Indians*, S.C. 1857, chapter 26.

39. NAC RG10, volume 245, part 1, Resident Agent and Secretary of Indian Affairs Letterbooks, statements of Indian leaders contained in communication from D. Thorburn to R. Pennefather, 13 October 1858, quoted in John S. Milloy, "A Historical Overview of Indian-Government Relations 1755-1940", discussion paper prepared for the Department of Indian Affairs and Northern Development, 7 December 1992, p. 61.

40. United Kingdom, *Parliamentary Papers*, Aborigines, volume 2, "Report of the Select Committee of the House of Commons on the Aborigines of the British Settlement" (1837), p. 77. See also Richard Bartlett, *Subjugation, Self-Management and Self-Government of Aboriginal Lands and Resources* (Kingston: Institute of Intergovernmental Relations, Queen's University, 1986), p. 27.

    Very similar language was used 50 years later in *United States* v. *Kagama*, 118 U.S. 375 (1886), the leading U.S. Supreme Court decision justifying congressional plenary power over Indians as a way of protecting them from the local settler populations (p. 384):

    > They owe no allegiance to the States, and receive from them no protection. Because of the local ill-feeling, the people of the States where they are found are often their deadliest enemies.

41. *An Act providing for the organisation of the Department of the Secretary of State of Canada, and for the management of Indian and Ordnance Lands*, S.C. 1868, chapter 42, section 15.

42. *An Act for the gradual enfranchisement of Indians, the better management of Indian affairs, and to extend the provisions of the Act 31st Victoria, Chapter 42*, S.C. 1869, chapter 6.

43. Department of Indian Affairs, *Annual Report*, 1870, per William Spragge. See Daugherty and Madill, *Indian Government* (cited in note 10), p. 1.

44. Even today many assert that political matters internal to bands are firmly in the control of a dominant male hierarchy that has had more than a century to consolidate its power.

45. Ultimately, this limiting focus on band-level government would be adopted by Indian peoples themselves. Thus the modern Assembly of First Nations, for example, is made up of the chiefs of the individual band governments first established in 1869 and carried forward into the *Indian Act* a few years later.

46. In *Felix Cohen's Handbook of Federal Indian Law*, 1982 edition, ed. R. Strickland et al. (Charlottesville, Virginia: The Michie Company Law Publishers, 1982), allotment is described (pp. 129-130, footnote omitted) as follows:

> The allotment concept was not new; Indian lands had been allotted as early as 1633...
>
> Later, allotments were used as a method of terminating tribal existence. Allottees surrendered their interest in the tribal estate and became citizens subject to state and federal jurisdiction. During the 1850s this break-up of tribal lands and tribal existence assumed a standard pattern. Such experiments in allotment served as models for later legislation.

The major attempt to destroy the basis of separate tribal existence in the United States occurred in 1887 with the passage of the *General Allotment Act* (25 U.S.C. ss. 331-34, 339, 341, 342, 349, 354, 381), known as the Dawes Act. It provided for compulsory allotment of communally held tribal lands. The allotment policy and process are described in Janet A. McDonnell, *The Dispossession of the American Indian 1887-1934* (Bloomington: Indiana University Press, 1991).

47. Location tickets have been replaced on Indian reserves by certificates of possession and occupation in the modern version of the *Indian Act*, but otherwise the concept is the same.

Section 31 of the *Manitoba Act, 1870*, R.S.C. 1985, Appendix 2, No. 8, provides for the allotment of individual tracts of land to "the children of the half-breed heads of families" as follows:

> 31. And whereas, it is expedient, towards the extinguishment of the Indian Title to the lands in the Province, to appropriate a portion of such ungranted lands, to the extent of one million four hundred thousand acres thereof, for the benefit of the families of the half-breed residents, it is hereby enacted, that, under regulations to be from time to time made by the Governor General in council, the Lieutenant-Governor shall select such lots or tracts in such parts of the Province as he may deem expedient, to the extent aforesaid, and divide the same among the children of the half-breed heads of families residing in the Province at the time of the said transfer to Canada, and the same shall be granted to the said children respectively, in such mode and on such conditions as to settlement and otherwise, as the Governor General in Council may from time to time determine.

For a discussion of this provision see Paul L.A.H. Chartrand, "Aboriginal Rights: The Dispossession of the Métis", *Osgoode Hall Law Journal* 29 (1991), p. 457, where he states that the section of the *Manitoba Act* granting land to Métis children "was a 'fast-track' version of the Indian enfranchisement legislation applied in eastern Canada" (p. 470).

48. NAC RG10, Red Series, volume 1934, file 3541, Chairman, General Indian Council (Napanee) to the Minister of the Interior, 16 June 1872, quoted in John Leslie and Ron Maguire, *The Historical Development of the Indian Act*, second edition (Ottawa: Department of Indian Affairs and Northern Development, Treaties and Historical Research Centre, 1978), p. 54.

49. *An Act to amend certain Laws respecting Indians, and to extend certain Laws relating to matters connected with Indians to the Provinces of Manitoba and British Columbia* S.C. 1874, chapter 21.

50. *An Act to amend and consolidate the laws respecting Indians*, S.C. 1876, chapter 18.

51. Department of the Interior, *Annual Report for the year ended 30th June, 1876* (Parliament, Sessional Papers, No. 11, 1877), p. xiv.

52. Its sole provision in this respect is to allow treaty moneys to be paid to Indians out of the Consolidated Revenue Fund. *Indian Act*, R.S.C. 1985, chapter I-5, as amended, section 72.

53. House of Commons, *Debates*, Third Session – Third Parliament, 30 March 1876, p. 933. See also Leslie and Maguire, *Historical Development* (cited in note 48), p. 60.

    The approach of treating Indians as minors was, of course, also official policy in the United States, the basis of which can be found in the leading Supreme Court case, *Worcester* v. *Georgia*, 31 U.S. (8 Peters) 515 (1832), where the relation of the tribes to the United States is described as resembling "that of a ward to his guardian". That phrase was enlarged upon and used as justification for the imposition of unrestricted federal power over the internal affairs of the tribes in *United States* v. *Kagama*, 118 U.S. 375 (1886) at 383-384:

    > These Indian Tribes *are* the wards of the nation. They are communities *dependent* on the United States.... From their very weakness and helplessness...there arises the duty of protection, and with it the power.

54. S.C. 1876, chapter 18, section 26.1.

55. George Manuel and Michael Posluns, *The Fourth World: An Indian Reality* (Don Mills: Collier-Macmillan Canada, Ltd., 1974), p. 123.

56. S.C. 1876, chapter 18, section 63. But the allocation was not valid until approved by the superintendent general, who would issue the actual location ticket under sections 6 and 7.

57. *An Act for conferring certain privileges on the more advanced Bands of the Indians of Canada, with the view of training them for the exercise of municipal powers*, S.C. 1884, chapter 28.

58. The Mississauga Band, by order in council in 1877. NAC RG10, volume 1079, No. 337, reference in the letterbook of the Deputy Superintendent General, 12 April 1880, quoted in Daugherty and Madill, *Indian Government* (cited in note 10), p. 4.

59. In modern times this has impeded Indian bands effectively from participating in the larger Canadian economy because of delays in getting access to their own funds for investment and development purposes.

60. The provision for the imposition of punishment continues in the present act. Where there is no local justice of the peace, it is still difficult for band councils to enforce their by-laws.

61. The Mississauga of the Credit, the Caughnawaga, the Cowichan, Kinolith, Metlekatla, Port Simpson and St. Peter's reserves, according to Leslie and Maguire, *Historical Development* (cited in note 48), p. 90.

62. A brief but excellent description of the policies underlying particular measures in the *Indian Act* is offered in Brian E. Titley, *A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada* (Vancouver: University of British Columbia Press, 1986), particularly the chapter entitled "General Aspects of Policy and Administration", pp. 37-59. For a more general perspective, see Rémi Savard and Jean-René Proulx, *Canada derrière l'épopée, les autochtones* (Montreal: Éditions de l'Hexagone, 1982), chapter 3, pp. 91-174.

63. House of Commons, *Debates*, First Session – Thirteenth Parliament, volume 132, p. 1049 (19 April 1918). See also Brian Titley, *A Narrow Vision*, p. 41.

    About two months earlier, former Indian agent and agency inspector William Graham had been appointed commissioner for greater production for the prairie provinces as part of the scheme to improve wartime agricultural production. His powers included developing a production policy for each individual reserve, leasing reserve lands to non-Indian farmers where necessary, and establishing 'greater production farms' on Indian lands expropriated under the *War Measures Act* and using Indian labour. A grant from war appropriations financed a large part of this overall scheme.

64. NAC RG10, volume 7484, file 25001, part 1, Duncan Campbell Scott to Superintendent General Arthur Meighen, 15 October 1918, quoted in Titley, *A Narrow Vision*, p. 44.

65. House of Commons, *Debates* volume 74, 30 March 1906, quoted in Titley, *A Narrow Vision*, p. 21.

66. The provision is still in the *Indian Act* (section 64(1)(a)) and is criticized by many Indian people as providing too much of an incentive to Indians to sell their homelands. See *The Report of the Commission of Inquiry Concerning Certain Matters Associated with the Westbank Indian Band* (Ottawa: Supply and Services, 1988), p. 409.

67. NAC RG10, volume 3617, file 4646-1, Chief Justice H.M. Howell, Manitoba Court of Appeal, to the Governor General in Council, 2 December 1907, quoted in Richard C. Daniel, *A History of Native Claims Processes in Canada, 1867-1979* (Ottawa: Research Branch, Department of Indian Affairs and Northern Development, 1980), p. 113.

68. Eventually legislation was passed *(An Act relating to the St. Peter's Indian Reserve* S.C. 1916, chapter 24) to settle the matter. Even today, however, controversy surrounds the surrender, by which the band exchanged the St. Peter's reserve for its present reserve. See Daniel, *A History of Native Claims.*

69. *Kruger* v. *The Queen*, [1986] 1 F.C. 3 at 24.

70. Although Mr. Justice Heald found a breach of the fiduciary obligation, ultimately he also found that the action by the band was time-barred. Justices Urie and Stone found no breach of the fiduciary obligation in the first place. In the result, all three judges dismissed the appeal.

71. House of Commons, *Debates*, 1910-1911, volume 4, column 7827, 26 April 1911.

72. Titley, *A Narrow Vision* (cited in note 62), p. 95.

73. *Re Indian Reserve, City of Sydney, N.S.* (1918), 42 D.L.R. (Ex. C.) 314 at 316-317 per Audette J.

74. *Dick* v. *The Queen*, [1985] 2 S.C.R. 309.

75. Duncan Campbell Scott, a deputy superintendent general of Indian affairs, stated with regard to the Wyandotte (Wendat) of Anderdon that by "education and intermarriage they had become civilized"; see *The Administration of Indian Affairs in Canada* (Toronto: Canadian Institute of Indian Affairs, 1931), p. 605. The enfranchisement of the Wyandotte of Anderdon is also discussed in Bruce G. Trigger, "The Original Iroquoians: Huron, Petun, and Neutral", in *Aboriginal Ontario: Historical Perspectives on the First Nations*, ed. Edward S. Rogers and Donald B. Smith (Toronto: Dundurn Press, 1994), pp. 59-61.

76. The Michel Band in Alberta, in 1958, discussed later in this chapter (see note 119 and accompanying text).

77. Department of Indian Affairs, *Annual Report*, 1920, p. 13, quoted in Titley, *A Narrow Vision* (cited in note 62), p. 48.

78. *An Act to amend the Indian Act*, S.C. 1919-1920, chapter 50, section 3.

79. The incident, along with a brief history of Loft's activities, is recounted in Titley, *A Narrow Vision* (cited in note 62), pp. 102-106.

80. In *Indian Women and the Law in Canada: Citizens Minus* (Ottawa: Supply and Services, 1978), Kathleen Jamieson cites the following figures (pp. 63-65), all derived from statistics provided to her by the department of Indian affairs. Between 1955 and 1965, for example, there were a total of 7,725 enfranchisements, 2,276 of which were voluntary enfranchisements of men and women (1,313) and included any children enfranchised along with them (963). Thus, 5,449 people – 4,274 women and 1,175 of their children – were involuntary enfranchisements. The disparity between voluntary and involuntary enfranchisements was even more pronounced between 1965 and 1975. There were 5,425 enfranchisements, of which 390 were voluntary, including both men and women (263) and any children enfranchised along with them (127). During the same period, however, a total of 5,035 people – 4,263 women and 772 of their children – were enfranchised involuntarily under section 12(1)(b) of the *Indian Act*.

81. For a fuller explanation of this period in Canadian history and of the policies designed to prevent Indian unrest on the prairies, see John L. Tobias, "Canada's

Subjugation of the Plains Cree, 1879-1885", in *Sweet Promises: A Reader on Indian-White Relations in Canada*, ed. J.R. Miller (Toronto: University of Toronto Press, 1991), pp. 212-240.

82. *An Act further to Amend "The Indian Act," chapter forty-three of the Revised Statutes*, R.S.C. 1890, chapter 29, section 9, making Indian agents justices of the peace for purposes of enforcing *An Act respecting Offences against Public Morals and Public Convenience*, R.S.C. 1886, chapter 157.

83. Manitoba, Public Inquiry into the Administration of Justice and Aboriginal People, *Report of the Aboriginal Justice Inquiry of Manitoba, Volume 1, The Justice System and Aboriginal People* (Winnipeg: Queen's Printer, 1991), pp. 303-304.

84. RCAP, *Bridging the Cultural Divide: A Report on Aboriginal People and Criminal Justice in Canada* (Ottawa: Supply and Services, 1996).

85. According to the Department of Indian Affairs and Northern Development, at the time of writing this report, those reserves were Akwesasne, Kahnawake and Mashteniatsh (Pointe Bleue).

86. The potlatch and the Tamanawas dance are described briefly in Douglas Cole and Ira Chaikin, *An Iron Hand Upon the People: The Law Against the Potlatch on the Northwest Coast* (Vancouver: Douglas & McIntyre, 1990), pp. 5-13.

87. NAC RG10, volume 3669, file 10,691, Gilbert M. Sproat, joint federal-provincial appointee to the British Columbia Indian Reserve Commission, to the superintendent general of Indian Affairs, 27 October 1879, quoted in Cole and Chaikin, *An Iron Hand*, p. 15.

88. This case arose in 1889 and is discussed in Cole and Chaikin, *An Iron Hand*, pp. 35-36. The *Indian Act* was amended later to overcome the specific problems with the wording that Begbie had pointed out.

89. J.R. Miller describes the role of these Indian converts to Christianity in the anti-potlatch crusade in "Owen Glendower, Hotspur and Canadian Indian Policy", in *Sweet Promises* (cited in note 81), p. 329.

90. Chief Alfred Scow, Kwicksutaineuk Tribe, in RCAP, National Round Table on Aboriginal Justice Issues, transcripts, Ottawa, 26 November 1992. For information about transcripts and other RCAP publications, see *A Note About Sources* at the beginning of this volume.

91. The campaign to eradicate dancing on the prairies is related in Katherine Pettipas, *Severing the Ties That Bind: Government Repression of Indigenous Religious Ceremonies on the Prairies* (Winnipeg: University of Manitoba Press, 1994), particularly pp. 121-122, where the story of the arrest and jailing of Taytapasahsung is told.

92. NAC RG10, volume 3826, file 60, Duncan Campbell Scott to W.M. Graham, 4 October 1921, quoted in Titley, *A Narrow Vision* (cited in note 62), p. 177.

93. *The Queen* v. *Drybones*, [1970] S.C.R. 282.

94. Sarah Carter, "Two Acres and a Cow: 'Peasant' Farming for the Indians of the Northwest, 1889-97", in *Sweet Promises* (cited in note 81), p. 360.

95. Parliament of Canada, *Sessional Papers*, volume 23, no. 12, *Annual Report for the year ended 31st December 1889*, p. 162, quoted in Sarah Carter, *Lost Harvests: Prairie Indian Reserve Farmers and Government Policy* (Montreal: McGill-Queen's University Press, 1990), p. 213.

96. Jean Goodwill and Norma Sluman, *John Tootoosis* (Winnipeg: Pemmican Publications, 1984), p. 125.

97. This was the rationale of Duncan Campbell Scott, deputy superintendent general of Indian affairs at the time. In 1924 he had written to E.L. Newcombe, deputy minister of justice, requesting a legal opinion of the draft clause that eventually became section 149A of the revised *Indian Act* (R.S.C. 1927, chapter 98). See NAC RG10, volume 6810, file 470-2-3, volume 8, quoted in Leslie and Maguire, *Historical Development* (cited in note 48), p. 121.

98. The attempt to charge A.E. O'Meara is recounted briefly in Titley, *A Narrow Vision* (cited in note 62), p. 157, while that regarding F.O. Loft is told in Goodwill and Sluman, *John Tootoosis* (cited in note 96), pp. 136-137.

99. F. Laurie Barron, "The Indian Pass System in the Canadian West, 1882-1935", *Prairie Forum* 13/1 (Spring 1988), pp. 27-28.

100. NAC RG18, volume 1100, no. 134-35, from the Assistant Indian Commissioner to the Commissioner of the North-West Mounted Police, 20 September 1888; NAC RG10, volume 3285, file 60,511-1-7, p. 7, from F.H. Paget to the Commissioner of the North-West Mounted Police, 30 May 1896, quoted in Barron, "The Indian Pass System", pp. 34-35. See also Pettipas, *Severing the Ties That Bind* (cited in note 91), p. 113.

101. H.B. Hawthorn, C.S. Belshaw, and S.M. Jamieson, *The Indians of British Columbia: A Study of Contemporary Social Adjustment* (Vancouver: University of British Columbia Press, 1958), p. 486. See Peter Carstens, *The Queen's People: A Study of Hegemony, Coercion, and Accommodation among the Okanagan of Canada* (Toronto: University of Toronto Press, 1991), p. 88.

102. In this regard, see Carter, "Two Acres and A Cow" (cited in note 94), p. 368.

103. William M. Graham, *Treaty Days: Reflections of an Indian Commissioner* (Calgary: Glenbow Museum, 1991), p. 84.

104. House of Commons, *Debates*, Third Session – Fifth Parliament, 30 April 1885, p. 1484, quoted in Richard Bartlett, "Citizens Minus: Indians and the Right to Vote", *Saskatchewan Law Review* 44 (1980), p. 163. For a discussion of the federal and provincial franchise in relation to Indians, see also Royal Commission on Electoral Reform and Party Financing, *Reforming Electoral Democracy*, volume 1 (Ottawa: Supply and Services, 1991).

105. This happened at different times in different provinces. See Bartlett, "Citizens Minus", pp. 183-184.

106. Although this put such women in a vulnerable position, they were nonetheless in a more fortunate situation than women who had actually been enfranchised through the actions of their husbands under the enfranchisement provisions of the act. Such women lost not only Indian status, but also all connection to the band. In law they were considered non-Indians, provincial residents and Canadian citizens like all others, regardless of their Indian origins and former Indian community.

107. Transcript of the evidence of Sandra Ginnesh, cited in the recent decision of the Federal Court of Canada in *Sawridge Band* v. *Canada,* [1995] 4 Canadian Native Law Reporter 121. The red ticket system is discussed in some detail in this case.

108. *A.G. of Canada* v. *Lavell – Isaac* v. *Bedard,* [1974] S.C.R. 1349 at 1386.

109. See note 80.

110. This power was used in 1942, when the Indian affairs branch investigated its band lists in the Lesser Slave Lake area and discharged 663 persons on the basis of their mixed ancestry. The protests led to the creation of a judicial inquiry conducted by Judge W.A. Macdonald of the District Court of Alberta. He found in his 1944 report that in almost half the cases the power had been used arbitrarily. See Daniel, *History of Native Claims* (cited in note 67), pp. 25-26.

111. NAC RG10, 577-127-33, volume 1A, quoted in Jamieson, *Indian Women and the Law* (cited in note 80).

112. Figure 9.1 is based on the excellent discussion of the post-1985 Indian status rules in Native Women's Association of Canada, *Guide to Bill C-31: An Explanation of the 1985 Amendments to the Indian Act* (Ottawa: NWAC, 1985).

113. Stewart Clatworthy and Anthony H. Smith, "Population Implications of the 1985 Amendments to the Indian Act", paper prepared for the Assembly of First Nations (December 1992), preface.

114. Projections in the study by Clatworthy and Smith (pp. 37-39) show that the expansion of the status Indian population will peak between 2021 and 2051 and will begin to decline thereafter, returning to its present level by 2091. A decline in the status Indian population is expected to set in then and to continue.

115. Special Joint Committee of the Senate and House of Commons appointed to examine and consider the Indian Act, *Minutes of Proceedings and Evidence* (Ottawa: King's Printer, 1946), p. 744.

116. Diamond Jenness, "Plan for Liquidating Canada's Indian Problem Within 25 Years", in Special Joint Committee, *Minutes of Proceedings and Evidence,* p. 310.

117. Special Joint Committee, *Minutes of Proceedings and Evidence,* p. 187.

118. *Indian Act,* S.C. 1951, chapter 29, section 8.

119. To this effect, see Bradford W. Morse, "The Aboriginal Peoples of Canada", in *Aboriginal Peoples and the Law: Indian, Metis and Inuit Rights in Canada,* ed. Bradford Morse (Ottawa: Carleton University Press, 1989), p. 1; and Linda Rayner, "The Creation of a 'Non-Status' Indian Population by Federal Government

Policy and Administration", paper prepared for the Native Council of Canada (1978), p. 6.

120. The history of the Michel Band and the origins of the land claims, to which current status Indians descended from this band apparently do not have access, is set out in Bennett McCardle, "The Michel Band: A Short History" (Ottawa: Treaty and Aboriginal Rights Research of the Indian Association of Alberta, 1981). This paper can be obtained from the Assembly of First Nations. The federal specific claims policy and its failure to address potential claims from Michel Band descendants is described in William B. Henderson and Derek T. Ground, "Survey of Aboriginal Land Claims", *Ottawa Law Review* 26/1 (1994), pp. 201-202. A report by the Indian affairs branch (cited in note 121), p. 36, states that one other band enfranchised voluntarily in the 1950s. It consisted of one family living on a reserve but is not named in the document.

121. Indian Affairs Branch, Department of Citizenship and Immigration, *A Review of Activities, 1948-1958*, pp. 8-9, 35-36. See also John F. Leslie, "A Historical Survey of Indian-Government Relations, 1940-1970", paper prepared for the Royal Commission Liaison Office, DIAND (December 1993).

122. Joint Committee of the Senate and the House of Commons on Indian Affairs, *Minutes of Proceedings*, No. 16, including second and final report to Parliament (1961), p. 605.

123. *Survey of the Contemporary Indians of Canada* (cited in note 13).

124. *Survey of the Contemporary Indians of Canada*, p. 263.

125. House of Commons, Special Committee on Indian Self-Government, *Indian Self-Government in Canada: Report of the Special Committee* (Ottawa: Supply and Services, 1983).

126. S.C. 1984, chapter 18.

127. S.C. 1986, chapter 27.

128. *Lands, Reserves and Trusts Review: Phase II Report* (Ottawa: Supply and Services, 1990), preface.

10

Residential Schools

In the first few decades of the life of the new Canadian nation, when the government turned to address the constitutional responsibility for Indians and their lands assigned by the *Constitution Act, 1867*, it adopted a policy of assimilation.[1] As described in the previous chapter, the roots of this policy were in the pre-Confederation period. It was a policy designed to move communities, and eventually all Aboriginal peoples, from their helpless 'savage' state to one of self-reliant 'civilization' and thus to make in Canada but one community – a non-Aboriginal, Christian one.[2]

Of all the steps taken to achieve that goal, none was more obviously a creature of Canada's paternalism toward Aboriginal people, its civilizing strategy and its stern assimilative determination than education. In the mind of Duncan Campbell Scott, the most influential senior official in the department of Indian affairs in the first three decades of the twentieth century, education was "by far the most important of the many subdivisions of the most complicated Indian problem".[3] As a potential solution to that 'problem', education held the greatest promise. It would, the minister of Indian affairs, Frank Oliver, predicted in 1908, "elevate the Indian from his condition of savagery" and "make him a self-supporting member of the state, and eventually a citizen in good standing."[4]

It was not, however, just any model of education that carried such promise. In 1879, Sir John A. Macdonald's government, pressured by the Catholic and Methodist churches to fulfil the education clauses of the recently negotiated western treaties,[5] had assigned Nicholas Flood Davin the task of reporting "on the working of Industrial Schools...in the United States and on the advisability of establishing similar institutions in the North-West Territories of the Dominion." Having toured U.S. schools and consulted with the U.S. commissioner of Indian affairs and "the leading men, clerical and lay who could speak with authority on

the subject" in western Canada, Davin called for the "application of the principle of industrial boarding schools" – off-reserve schools that would teach the arts, crafts and industrial skills of a modern economy. Children, he advised, should be removed from their homes, as "the influence of the wigwam was stronger than that of the [day] school", and be "kept constantly within the circle of civilized conditions" – the residential school – where they would receive the "care of a mother" and an education that would fit them for a life in a modernizing Canada.[6]

Davin's report received the unqualified support of the churches and the department, with the latter going so far as to suggest that within the wide range of assimilative policies, it would be through residential education, more than any other method, that "the solution of that problem, designated 'the Indian question' would probably be effected...".[7]

Politician, civil servant and, perhaps most critically, priest and parson all felt that in developing the residential school system they were responding not only to a constitutional but to a Christian "obligation to our Indian brethren" that could be discharged only "through the medium of the children" and "therefore education must be given the foremost place".[8]

At the same moment, however, they were driven by more prosaic motives. Macdonald's deputy superintendent general of Indian affairs, L. Vankoughnet, assured him that Indian expenditures were "a good investment", for in due course Aboriginal people, "instead of being supported from the revenue of the country...would contribute largely to the same."[9]

The socializing power of education had a similarly self-serving utility. Schools were part of a network of institutions that were to minister to industrial society's need for order, lawfulness, labour and security of property.[10] Scott admitted frankly that the provision of education to Indian communities was indispensable, for without it and "with neglect", they "would produce an undesirable and often dangerous element in society."[11]

Residential schools were more than a component in the apparatus of social construction and control. They were part of the process of nation building and the concomitant marginalization of Aboriginal communities. The department's inspector of education wrote in 1900 that the education of Aboriginal people in frontier districts was an important consideration,

> not only as an economical measure to be demanded for the welfare of the country and the Indians, themselves, but in order that crime may not spring up and peaceful conditions be disturbed as that element which is the forerunner and companion of civilization penetrates the country and comes into close contact with the natives. That benefit will accrue to both the industrial occupants of the country covered by treaty and to the Indians by weaning a number from the chase and inclining them to industrial pursuits is patent to those who

> see [that] a growing need of intelligent labour must occur as development takes place.[12]

The Aboriginal leader George Manuel, a residential school graduate, was rather more blunt. The schools, he wrote,

> were the laboratory and production line of the colonial system...the colonial system that was designed to make room for European expansion into a vast empty wilderness needed an Indian population that it could describe as lazy and shiftless...the colonial system required such an Indian for casual labour...[13]

Selfless Christian duty and self-interested statecraft were the foundations of the residential school system. The edifice itself was erected by a church/government partnership that would manage the system jointly until 1969. In this task the churches – Anglican, Catholic, Methodist and Presbyterian – led the way. Indeed, their energetic proselytizing resulted in the opening of residential schools in Ontario, the north-west and British Columbia even before the Davin report was submitted in 1879. Thereafter, the system – a combination of boarding schools built close to or in reserve communities and Davin's centrally located industrial schools – was expanded rapidly, reaching a high point with 80 schools in 1931 (see Table 10.1) and growing again in the 1950s as part of the nation's post-war expansion into Inuit homelands. It was maintained until the mid-1980s. Schools were built in every province and territory except Prince Edward Island, New Brunswick and Newfoundland.[14] They registered children from every Aboriginal culture – Indian, Inuit, and Métis children too – though the federal government assumed no constitutional responsibility for Métis people.[15] While Métis children would be invisible, rarely mentioned in the records, they were nevertheless there and were treated the same as all the children were.

Put simply, the residential school system was an attempt by successive governments to determine the fate of Aboriginal people in Canada by appropriating and reshaping their future in the form of thousands of children who were removed from their homes and communities and placed in the care of strangers. Those strangers, the teachers and staff, were, according to Hayter Reed, a senior member of the department in the 1890s, to employ "every effort...against anything calculated to keep fresh in the memories of the children habits and associations which it is one of the main objects of industrial education to obliterate."[16] Marching out from the schools, the children, effectively re-socialized, imbued with the values of European culture, would be the vanguard of a magnificent metamorphosis: the 'savage' was to be made 'civilized', made fit to take up the privileges and responsibilities of citizenship.

Tragically, the future that was created is now a lamentable heritage for those children and the generations that came after, for Aboriginal communities and, indeed, for all Canadians. The school system's concerted campaign "to obliterate"

TABLE 10.1
Residential Schools, 1931

Nova Scotia	Shubenacadie (RC)		
Ontario	Albany Mission (RC)	Cecilia Jeffrey (PR)	Chapleau (CE)
	Fort Frances (RC)	Fort William (RC)	Kenora (RC)
	McIntosh (RC)	Mohawk (CE)	Moose Fort (CE)
	Mount Elgin (UC)	Shingwauk Home (CE)	Sioux Lookout (CE)
	Spanish (RC)		
Manitoba	Birtle (PR)	Brandon (UC)	Cross Lake (RC)
	Elkhorn (CE)	Fort Alexander (RC)	MacKay (CE)
	Norway House (UC)	Pine Creek (RC)	
	Portage la Prairie (UC)	Sandy Bay (RC)	
Saskatchewan	Beauval (RC)	Cowessess (RC)	Duck Lake (RC)
	File Hills (UC)	Gordon's (CE)	Guy (RC)
	Lac La Ronge (CE)	Muscowequan (RC)	Onion Lake (CE)
	Onion Lake (RC)	Qu'Appelle (RC)	Round Lake (UC)
	St. Phillips (RC)	Thunderchild (RC)	
Alberta	Blood (RC)	Blue Quills (RC)	Crowfoot (RC)
	Edmonton (UC)	Ermineskins (RC)	Holy Angels (RC)
	Lesser Slave Lake (CE)	Morley (UC)	Old Sun's (CE)
	St. Albert (RC)	St. Bernard (RC)	St. Bruno (RC)
	St. Cyprian (CE)	St. Paul's (CE)	Sacred Heart (RC)
	Sturgeon Lake (RC)	Vermilion (RC)	Wabasca (CE)
	Wabasca (RC)	Whitefish Lake (CE)	
Northwest Territories	Aklavik (RC)	Fort Resolution (RC)	Hay River (CE)
	Providence Mission (RC)		
British Columbia	Ahousaht (UC)	Alberni (UC)	Alert Bay (CE)
	Cariboo (RC)	Christie (RC)	Coqualeetza (UC)
	Kamloops (RC)	Kitamaat (UC)	Kootenay (RC)
	Kuper Island (RC)	Lejac (RC)	Port Simpson (UC)
	St. George's (CE)	St. Mary's Mission (RC)	Sechelt (RC)
	Squamish (RC)		
Yukon	Carcross (CE)	St. Paul's Hostel (CE)	

In 1931 there were 44 Roman Catholic (RC), 21 Church of England (CE), 13 United Church (UC) and 2 Presbyterian (PR) schools. These proportions among the denominations were constant throughout the history of the system.

In Quebec two schools, Fort George (RC) and Fort George (CE), were opened before the Second World War. Four more were added after the war: Amos, Pointe Bleue, Sept-Îles and La Tuque.

those "habits and associations", Aboriginal languages, traditions and beliefs, and its vision of radical re-socialization, were compounded by mismanagement and underfunding, the provision of inferior educational services and the woeful mistreatment, neglect and abuse of many children – facts that were known to the department and the churches throughout the history of the school system.

In the course of that history there were those who understood that such a terrible legacy was being created. In 1943, R. Hoey, the department's superintendent of welfare and training, on receiving from the principal of St. George's School (located on the Fraser River, just north of Lyttons, B.C.) a set of shackles that had been used routinely "to chain runaways to the bed" and reports of other abuses at the school, wrote, "I can understand now why there appears to be such a widespread prejudice on the part of the Indians against residential schools. Such memories do not fade out of the human consciousness very rapidly."[17] Nevertheless, with very few exceptions, neither senior departmental officials nor churchmen nor members of Parliament raised their voices against the assumptions that underlay the system or its abusive character. And, of course, the memory did not and has not faded. It has persisted, festered and become a sorrowful monument, still casting a deep shadow over the lives of many Aboriginal people and communities and over the possibility of a new relationship between Aboriginal and non-Aboriginal Canadians.

1. The Vision and Policies of Residential School Education

1.1 The Vision

> ...it is to the young that we must look for a complete change of condition.[18]

The tragic legacy of residential education began in the late nineteenth century with a three-part vision of education in the service of assimilation. It included, first, a justification for removing children from their communities and disrupting Aboriginal families; second, a precise pedagogy for re-socializing children in the schools; and third, schemes for integrating graduates into the non-Aboriginal world.

The vision sprang from and was shaped and sustained by the representations of departmental officials and churchmen of the character, circumstances and destiny of the nation's Aboriginal population. For such social reformers in Canada, and indeed throughout the world of European empires, the contact between expansive and 'mature' non-Aboriginal culture and indigenous cultures in their 'infancy' imperilled the survival of Aboriginal peoples. According to an 1886 report from the department's inspector of schools for the north-west, for

example, resource development and settlement had prevented Indian communities from

> following that course of evolution which has produced from the barbarian of the past the civilized man of today. It is not possible for him to be allowed slowly to pass through successive stages, from pastoral to an agricultural life and from an agricultural one, to one of manufacturing, commerce or trade as we have done. He has been called upon suddenly and without warning to enter upon a new existence.[19]

The need for government intervention to liberate these savage people from the retrograde influence of a culture that could not cope with rapidly changing circumstances was pressing and obvious. Without it, the inspector continued, the Indian "must have failed and perished miserably and he would have died hard entailing expense and disgrace upon the Country." The exact point of intervention that would "force a change in [the Indian's] condition" was equally clear – "it is to the young that we must look for a complete change of condition."

Only in the children could hope for the future reside, for only children could undergo "the transformation from the natural condition to that of civilization".[20] Adults could not join the march of progress. They could not be emancipated from their "present state of ignorance, superstition and helplessness";[21] they were "physically, mentally and morally...unfitted to bear such a complete metamorphosis".[22] Under departmental tutelage, adults might make some slight advance. They could, Davin suggested, "be taught to do a little at farming and at stock raising and to dress in a more civilized fashion, but that is all."[23] They were, in the words of the Reverend E.F. Wilson, founder of the Shingwauk residential school, "the old unimprovable people."[24]

The central difficulty in this analysis was not that adults were lost to civilization, but that they were an impediment to it. While they could not learn, they could, as parents, teach their children. Through them to their children and on through successive generations ran the "influence of the wigwam". If the children's potential was to be realized, it could only be outside the family. As E. Dewdney, superintendent general of Indian affairs in Macdonald's second government, reasoned, children therefore had to be removed from "deleterious home influences";[25] they must be, the Archbishop of St. Boniface added, "caught young to be saved from what is on the whole the degenerating influence of their home environment."[26] Their parents were, by the light of the vision's compelling logic, unfit. Only Frank Oliver demurred, pointing out the essentially un-Christian implication of this formative conclusion:

> I hope you will excuse me for so speaking but one of the most important commandments laid upon the human by the divine is love and respect by children for parents. It seems strange that in the name of religion a system of education should have been instituted,

> the foundation principle of which not only ignored but contradicted this command.[27]

No one took any notice of the minister, however, for no one involved in Indian affairs doubted for a moment that separation was justified and necessary and that residential schools were therefore indispensable. Such institutions would, Parliament had been informed in 1889, undoubtedly reclaim the child "from the uncivilized state in which he has been brought up" by bringing "him into contact from day to day with all that tends to effect a change in his views and habits of life."[28] In its enthusiasm for the schools, the department went so far as to suggest that it would be "highly desirable, if it were practicable, to obtain entire possession of all Indian children after they attain to the age of seven or eight years, and keep them at schools...until they have had a thorough course of instruction".[29]

The common wisdom of the day that animated the educational plans of church and state was that Aboriginal children had to be rescued from their "evil surroundings", isolated from parents, family and community,[30] and "kept constantly within the circle of civilized conditions".[31] There, through a purposeful course of instruction that Vankoughnet described as "persistent" tuition,[32] a great transformation would be wrought in the children. By a curriculum aimed at radical cultural change – the second critical element of the vision – the 'savage' child would surely be re-made into the 'civilized' adult.

The school, as department and church officials conceived it, was a circle, an all-encompassing environment of re-socialization with a curriculum that comprised not only academic and practical training but the whole life of the child in the school. This constituted the basic design of the schools and was maintained, with little variation, for most of the history of the system.

The classroom work of the teachers and students was to be guided by the standard provincial curriculum. To this was added equally important training in practical skills. The department held firm to Davin's industrial model, convinced that

> no system of Indian training is right that does not endeavour to develop all the abilities, remove prejudice against labour, and give courage to compete with the rest of the world. The Indian problem exists owing to the fact that the Indian is untrained to take his place in the world. Once teach him to do this, and the solution is had.[33]

In every school, therefore, the children were to receive instruction in a range of subjects, including, for the boys, agriculture, carpentry, shoemaking, blacksmithing, tinsmithing and printing and, for the girls, sewing, shirt making, knitting, cooking, laundry, dairying, ironing and general household duties. As the curriculum was delivered in a half-day system until after the Second World War, with students spending half the day in the classroom and the other half in practical activities, trades training took place both in shops and in learn-by-doing

chores. These chores had the additional benefit for the school of providing labour – on the farm and in the residences, bakehouse, laundry and dairy that made operation of the institution possible.[34]

Although these academic and practical courses might clothe the children in the skills and experience they needed to survive and prosper, the department and the churches realized that the children would have to undergo much more profound socialization. Skills would be useless unless accompanied by the values of the society the children were destined to join. The seeds of those values were, of course, embedded in each and every academic subject, in the literature they read, the poetry they recited, and the songs they were taught to sing. As well, however, in its 1896 program of study, the department directed that an ethics course be taught in each grade. In the first year, the students were to be taught the "practice of cleanliness, obedience, respect, order, neatness", followed in subsequent years by "Right and wrong", "Independence. Self-respect", "Industry. Honesty. Thrift", and "Patriotism....Self-maintenance. Charity." In the final year, they were confronted by the "Evils of Indian Isolation", "Labour the Law of Life" and "Home and public duties".[35]

Cardinal among these virtues was moral training for, as a memorandum from the Catholic principals explained, "all true civilization must be based on moral law." Christianity had to supplant the children's Aboriginal spirituality, which was nothing more than "pagan superstition" that "could not suffice" to make them "practise the virtues of our civilization and avoid its attendant vices." In the schools, as well as in the communities, there could be no compromise, no countenancing Aboriginal beliefs and rituals, which, "being the result of a free and easy mode of life, cannot conform to the intense struggle for life which our social conditions require."[36]

The children were not only to imbibe those values, and a new faith, they were to live them. The school was to be a home – a Canadian one. On crossing its threshold, the children were entering a non-Aboriginal world where, with their hair shorn and dressed in European clothes, they would leave behind the 'savage' seasonal round of hunting and gathering for a life ordered by the hourly precision of clocks and bells and an annual calendar of rituals, the festivals of church and state – Christmas, Victoria Day, Dominion Day and St. Jean Baptiste Day – that were the rapid, steady pulse of the industrial world. According to Dewdney, students had to be taught that "there should be an object for the employment of every moment", and thus the "routine...the recurrence of the hours for meals, classwork, outside duties...are all of great importance in the training and education, with a view to future usefulness".[37]

In school, in chapel, at work and even at play the children were to learn the Canadian way. Recreation was re-creation. Games and activities would not be the "boisterous and unorganized games" of "savage" youth. Rather they were to have brass bands, football, cricket, baseball and above all hockey "with the well

regulated and...strict rules that govern our modern games", prompting "obedience to discipline" and thus contributing to the process of moving the children along the path to civilization.[38]

None of the foregoing would be achieved, however, unless the children were first released from the shackles that tied them to their parents, communities and cultures. The civilizers in the churches and the department understood this and, moreover, that it would not be accomplished simply by bringing the children into the school. Rather it required a concerted attack on the ontology, on the basic cultural patterning of the children and on their world view. They had to be taught to see and understand the world as a European place within which only European values and beliefs had meaning; thus the wisdom of their cultures would seem to them only savage superstition. A wedge had to be driven not only physically between parent and child but also culturally and spiritually. Such children would then be separated forever from their communities, for even if they went home they would, in the words of George Manuel, bring "the generation gap with them".[39] Only in such a profound fashion could the separation from savagery and the re-orientation as civilized be assured.

That the department and churches understood the central challenge they faced in civilizing the children as that of overturning Aboriginal ontology is seen in their identification of language as the most critical issue in the curriculum. It was through language that children received their cultural heritage from parents and community. It was the vital connection that civilizers knew had to be cut if progress was to be made. E.F. Wilson informed the department that at Shingwauk school, "We make a great point of insisting on the boys *talking English*, as, for their advancement in civilization, this is, of all things, the most necessary."[40] Aboriginal languages could not carry the burden of civilization; they could not "impart ideas which, being entirely outside the experience and environment of the pupils and their parents, have no equivalent expression in their native language."[41] Those ideas were the core concepts of European culture – its ontology, theology and values. Without the English language, the department announced in its annual report of 1895, the Aboriginal person is "permanently disabled" and beyond the pale of assimilation for, "So long as he keeps his native tongue, so long will he remain a community apart."[42]

The only effective road to English or French, however, and thus a necessary pre-condition for moving forward with the multi-faceted civilizing strategy, was to stamp out Aboriginal languages in the schools and in the children. The importance of this to the department and the churches cannot be overstated. In fact, the entire residential school project was balanced on the proposition that the gate to assimilation was unlocked only by the progressive destruction of Aboriginal languages. With that growing silence would come the dying whisper of Aboriginal cultures. To that end, the department ordered that "the use of English in preference to the Indian dialect must be insisted upon."[43]

It was left to school principals to implement that directive, to teach the languages of 'civilization' – French in Quebec and English in all other parts of Canada, including Francophone areas, and to prevent the language of 'savagery' from being spoken in the school. Some instituted imaginative systems of positive reinforcement through rewards, prizes or privileges for the exclusive use of English. More often than not, however, the common method was punishment. Children throughout the history of the system were beaten for speaking their language.[44]

The third and final part of the vision was devoted to the graduates, their future life and their contribution to the civilization of their communities. It was this aspect of the vision that underwent the greatest change. While the ideology of the curriculum and its goal of extensive cultural replacement remained constant, the perceived utility of the schools to the overall strategy of assimilation and their relationship to Aboriginal communities underwent substantial revision. There were, in fact, two residential school policies. The first, in the long period before the Second World War, placed the school at the heart of the strategy to disestablish communities through assimilation. In the subsequent period, the residential school system served a secondary role in support of the integration of children into the provincial education system and the modernization of communities.

Initially, the schools were seen as a bridge from the Aboriginal world into non-Aboriginal communities. That passage was marked out in clear stages: separation, socialization and, finally, assimilation through enfranchisement. By this last step, the male graduate could avail himself of the enfranchisement provisions of the *Indian Act*, leaving behind his Indian status and taking on the privileges and responsibilities of citizenship.

Each stage in the passage had its difficulties, and the department was fully aware that its task was not completed with the training that led to graduation. Indeed, it declared in its annual report of 1887, "it is after its completion that the greatest care...needs to be exercised, in order to prevent retrogression." Retrogression – cultural backsliding – was the great fear. Once the connection between child and community had been broken it should not be re-established; the child should never again fall under the influence of Indian "prejudices and traditions" or the "degradations of savage life."[45] To prevent this unhappy occurrence, the department reported in 1887, it would be best "to prevent those whose education at an industrial institution...has been completed from returning to the reserves". They were instead to be placed in the non-Aboriginal world and secured there by employment in the trade they had learned at the school, "so as to cause them to reside in towns, or, in the case of farmers, in settlements of white people, and thus become amalgamated with the general community."[46] By implication, the future was not only one of amalgamating growing numbers of employable graduates but also the progressive decay and final disappearance of reserve communities.

Reality intervened in this strategy, however, and, indeed, the department and the churches did not exercise the "greatest care" of graduates. There was no placement program, and even if there had been, situations were not available in towns or "settlements of white people". "Race prejudice", an Indian agent informed the department, "is against them and I am afraid that it will take time, under the circumstances, before they can compete with their white brothers in the trades."[47] By 1896, the department had to face the fact that "for the majority [of graduates], for the present at least, there appears to be no alternative" but to return to the reserves.[48] That present became the future; there were always but few openings for graduates. With the exception of temporary labour shortages during the war, it was obvious that "no appreciable number of graduates of the Schools will be in a position to earn a livelihood by working as a craftsman among whites."[49]

The second fact that had to be faced was that in returning to their communities, as Reed predicted, "there will be a much stronger tendency for the few to merge into the many than to elevate them."[50] A great proportion of the graduates would go "back to the ways of the old teepee life",[51] to the "nomadic habits of his ancestors."[52] They could not, one principal reported "stand firm" or "overcome this tendency to drift with the current that carries so many of their own people."[53]

The department and the churches recognized the problem – one that cut to the very heart of their strategy, blunting the usefulness of the schools and in fact so calling into question the industrial school model that, in 1922, it was abandoned in favour of the simpler boarding school, thereafter called a residential school. They recognized it but, as would be the case so often in the history of the system when it faced difficulties, they did very little apart from discuss it and formulate proposals.[54]

In 1898, the deputy superintendent general, James Smart, recognizing the impossibility of countering the drift back to reserves, decided to make a virtue out of necessity. He redesigned the system, supplementing its original emphasis on the enfranchisement of individual graduates with the additional goal of developing the communities to which the graduate returned. It would now be the object "to have each pupil impart what he has gained to his less fortunate fellows, and in fact become a centre of improving influence for the elevation of his race".[55] The graduates could be, the principal of the Regina industrial school predicted, a "great moral force in the uplift of the life of the reserve", providing "an object lesson" in farming, gardening, housekeeping, the care of the sick and "maintaining sanitary conditions about their homes."[56]

By 1901, the department had initiated an experiment, the File Hills colony on the Peepeekeesis reserve, designed to release the graduates' uplifting developmental potential. The colony, under the close supervision of the agent W.M. Graham, was a model settlement of 15 former pupils, each allocated an

80-acre lot, horses, farming equipment, lumber and hardware for houses. Departmental expenses were to be recouped from the young farmers when they achieved an adequate income and the funds transferred to "help others make a like start."[57]

Reports on the colony were promising in 1902 but in ensuing years they were much less so,[58] with the graduates described as being "all the way from 'lazy and indifferent' to 'making favourable or satisfactory progress'".[59] Reflecting these assessments, or perhaps because the experiment was, as the historian Olive Dickason has suggested, "too costly for the budget-minded department",[60] Duncan Campbell Scott chose not to extend it. Instead, he merely called upon principals and agents to co-ordinate the return of graduates to reserves and, so that they should not be thrown "entirely upon [their] own resources", he announced a modest start-up program – offering graduates "a gift of oxen and implements...and the granting of a loan which must be repaid within a certain time, and for which an agreement is signed by the pupil."[61]

These loans substituted for what could have been a more ambitious attempt to resolve the problem of the graduates.[62] As the United Church's Association of Indian Workers in Saskatchewan pointed out in 1930, there continued to be "a missing link that should be forged into the present system along the line of 'Follow up work'."[63] Without such a link, without any effective "control over the graduates",[64] they were destined to return to the reserves, where rather than being that "great moral force",[65] they would fall under "the depressing influence of those whose habits still largely pertain to savage life".[66] For those ex-pupils and for the communities, assimilation would remain an ever-distant departmental goal.

1.2 Changing Policies

> ...the interests of the children are best served by leaving them with their parents.[67]

The fact that the department stumbled in planning this final step to assimilation was augmented by an even more disturbing reality. As a general rule, at no time in the history of the system did the schools produce the well-educated graduates that were the prerequisite for both the original scheme of enfranchisement and Smart's amended community-based strategy. Indeed, the use of the word graduate was rather misleading, for very few children completed the full course of study, though it is clear that many children did receive some of the basics of a rudimentary education and a few children reached advanced levels. Even for those that did complete the program, most schools did not provide the training that was such an essential part of the residential vision. According to a review of the educational performance of the system up to 1950, conducted in

1968 by R.F. Davey, the director of educational services, the practical training that had been in place "contained very little of instructional value but consisted mainly of the performance of repetitive, routine chores of little or no educational value."[68]

Davey's judgement of the quality of the academic program was equally harsh. The system had failed to keep pace with advances in the general field of education and, because the schools were often in isolated locations and generally offered low salaries, the system had been unable to attract qualified staff. A departmental study quoted by Davey found that, as late as 1950, "over 40 per cent of the teaching staff had no professional training. Indeed, some had not even graduated from high school." Moreover, teachers worked under the most difficult conditions. Language training was a persistent problem, and the half-day system reduced class time to the extent that it was, Davey concluded, virtually impossible for students to make significant progress. He noted in his report that in 1945, when there were 9,149 residential school students, the annual report of the department showed only "slightly over 100 students enroled in grades above grade VIII and...there was no record of any students beyond the grade IX level."

In the 1950s and '60s the department made improvements in the educational component of the residential system. Additional departmental educational supervisory staff were employed, in 1951 the half-day system was abandoned, the department assumed direct responsibility for the hiring and remuneration of teachers in 1954,[69] and, in an attempt to attract more competent staff, teachers were "placed upon salary scales which bore some relationship to the salaries paid across the country."[70]

In attracting more competent staff, the department was able to achieve considerable success quickly. By 1957, the number of unqualified teachers in residential schools had been reduced by 50 per cent, and in 1962 the department reported that 91.1 per cent of the teachers it employed were fully qualified.[71] It was not easy to keep the percentage up, however, and two decades later the department admitted that it still had "difficulty in recruiting and retaining education staff."[72] Nevertheless, the department could track advances in educational attainment. By 1959, the number of children in grades 9 to 13 in residential and day schools had increased from none in 1945 to 2,144, and in the next decade, it rose even more rapidly to 6,834, which was just over 10 per cent of the total school (day and residential) population.[73]

All these efforts were overshadowed by what had been and continued to be a most fundamental impediment. Both the curriculum and the pedagogy, which were not in any way appropriate to the culture of the students, made it difficult for the children to learn. This fact could not have escaped the department's and the churches' attention, for on a number of occasions provincial school inspectors, employed by the department to assess the educational condition of the

schools, had made the point that the "curricula in use in various provinces are not necessarily the courses of study adapted for use in Indian schools." "It should not be forgotten", Inspector Warkentin informed the department in 1951, "that there is very often a very wide difference in the life experiences of Indian children and white children, a difference which should be reflected in courses of study."[74] Another inspector, while reinforcing this point, added a call for a change in pedagogy to one that would be more familiar to the children. In considering the subject of social studies, for example, he advised that "this work be taught by a due recognition of Indian background. Story telling can be used more effectively to arouse interest."[75]

Although the department admitted in the 1970s that the curriculum had not been geared to the children's "sociological needs", it did little to rectify that situation. A national survey was undertaken "to identify textbooks that the Indian people considered offensive, and steps were taken to remove these books from the schools".[76] Research was commissioned from a number of universities to address "the absence from the school curriculum generally of an Indian cultural component",[77] but none of it was of the scope that would ever have met Warkentin's suggestion that a comprehensive "curriculum specially aimed at the instruction of Indian children should be drawn up".[78] There is no indication in school records that the results of any of this research found its way into the classrooms of residential schools.

Efforts to improve the school program in the post-war period were undercut further by one final factor – the system was gradually abandoned. In 1948, the federal government – on the recommendation of the joint parliamentary committee on Indian affairs, which in hearings held beginning in 1946, had received strong representations from Indian groups for "an end to the policy and practice of segregated education"[79] – initiated an extensive redesign of its Aboriginal education strategy that not only took the emphasis off residential schools but determined that the system should be shut down completely as soon as possible. Departmental efforts and resources were reallocated to a new policy, away from the residential system to creation of a day school system and, most significantly, integration by "transferring Indian children to provincial schools, and federal schools to provincial administrative school units."[80]

The representations of Indian groups cannot be wholly discounted in this development, but in fact the move away from the traditional strategy began even before the war, and the dynamics that motivated it were, as always, a non-Aboriginal assimilative strategy and more mundane considerations – financial ones in this instance. In 1943, R.A. Hoey appeared before a special parliamentary committee on reconstruction and re-establishment. Reacting to statements by one of the committee members – that residential schools "lose a great deal of the value of the education", because they "segregate the children" from their community, and that if children were educated in a day school "[y]ou would

educate the parents and the children together" – Hoey admitted that he too had doubts about the efficacy of residential schools. His personal preference was "to see residential schools slowly and gradually closed".[81]

Hoey took back to the department the clear understanding that the "Indians in the judgement of the committee, should be encouraged to attend white schools" and that this would probably be the policy of the future. He was, as the department would be, in total agreement with such a policy directive. As he pointed out to the deputy minister, there was a definite educational benefit in giving the children the "opportunity of associating with white children during their formative years".[82] Such experience would increase the likelihood of their absorbing non-Aboriginal culture or, as Davey characterized it two decades later, would "quicken and give meaning to the accultural process through which [the children] are passing".[83] There also appeared to be a financial advantage for the government, in that integration, Hoey believed, "would in the end be substantially less than the cost of establishing" and operating an exclusively federal system of residential and day schools.[84]

The policy of integration, though an apparently radical redirection of educational policy, was not based on a wholly new vision of education's role in the quest for assimilation. It built upon Smart's idea of community development, but in this version, in a most surprising break with the civilizing logic of the late nineteenth century, an active part was assigned to the parents, whose dangerously savage character and baleful influence appear mysteriously to have disappeared. Indeed, the department took the position that maintaining the parent/child relationship was key – that "there can be no complete substitute for the care and concern of parents and the security which children feel when living at home".[85] Therefore,

> It is considered that the parents, wherever possible, should assume the responsibility for the care of their children, and that the interests of the children are best served by leaving them with their parents when home circumstances and other factors are favourable.[86]

This now-valued parental involvement was even given institutional form in federal day and residential schools. In 1956, the department set up a number of school committees "to stimulate parental and community interest, and to provide experience for the further involvement of Indians in the management of education." The committees, made up of band members, were to act as "advisory boards to departmental staff" and were to be "involved in the operation of the schools", being given authority for the "school lunch program, daily school transportation, repairs and the maintenance of school buildings...and they also present the annual operating budget to the district superintendent of education."[87] While the department expanded this initiative, establishing some 180 such committees by 1971, there was no increase in their authority. Most

noticeably, they were given no control over curriculum, perhaps so that whatever traces of the influence of the wigwam still existed might be effectively excluded from the classroom.

There is, indeed, reason to suspect that integration – despite the apparent cultural sensitivity of the textbook survey and commissioned research – did not lessen, and may even have increased, the corrosive impact of education on the culture of the children. Again, as in the original vision, the question of language was the essential template shaping the policy. The department realized that "the most formidable handicap that faces the Indian child entering [the provincial] school"[88] was the requirement to be able to function in English (and in French or English in Quebec). To that end, the greatest emphasis in this period was on the development of a language arts program,[89] and regional language specialists were employed to help the children "overcome any language difficulties",[90] in the belief that "much of the progress in Indian education" was to be realized by these "improved methods of language instruction."[91]

Most significantly, integration meant repositioning the residential school system. No longer the main thrust of the assimilative strategy, it became, as the department described it, "a supplementary service" for children "who for very special reasons, cannot commute to federal day schools or provincial schools from their homes".[92] The new organizing principle of the policy was "that in educational services, everything possible will be done to enable families to stay together, so children will not have to be separated from their parents needlessly."[93]

The whole educational system could not, of course, be remodelled overnight to conform to this new dictum. Rather the change in status occurred school by school, at different times in different parts of the country owing to local circumstances – for example, the development of reserve roads to allow busing of children to day schools, the construction of schools close to communities, and the progress of integration, which could not go forward without negotiating local school board and provincial agreements. The residential school system therefore comprised, at any point in time, a spectrum of different types of residential schools – from those that remained classic residential schools because of community isolation, to those that combined "residential and day school with a preponderance of day students", to those that became hostels or student residences for children brought in from distant communities to provincial schools during the day. There were even some that

> combined hostel, residential and day school, providing boarding facilities only for those pupils attending a nearby provincial school, boarding facilities and classroom instruction for others and classroom instruction only for day pupils.[94]

Finally, a boarding home program, involving the placement of high school students "in carefully selected private homes", was also introduced and substituted for residential assignment of children.[95]

The overall intention, of course, was for all residential schools to be closed as soon as implementation of the integration policy reduced enrolments. In 1948, 60 per cent of the Indian school population was enroled in federal schools.[96] In 1969, 60 per cent were in provincial schools,[97] and the number of residential schools and hostels was reduced from the 72 schools operating in 1948, with 9,368 students, to 52 schools with 7,704. That the number of schools and students did not fall proportionately was attributable not only to local circumstances but to two further difficulties – opposition to closures and the emergence of a new role for the schools as social welfare institutions.

The development of a welfare function was not a completely unforeseen implication of the new integration policy. Hoey had warned the reconstruction and re-establishment committee in 1943 that there would continue to be a need for residential places for "orphans and children from disrupted homes".[98] Because of "such things as alcoholism in the home, lack of supervision, serious immaturity",[99] some parents would not be able, as the new policy directed, to "assume the responsibility for the care of their children".[100] To reflect that reality and at the same time control and reduce residential school enrolments, an admissions policy "based upon the circumstances of the student's family"[101] was adopted. In areas where federal day school attendance or integration was possible, priority was given to children deemed to be "Category 3" – those from families where "a serious problem leading to neglect of children exists". Neglect – measured, of course, against non-Aboriginal norms – was "interpreted as defined in the provincial statute of the province in which the family resides".[102] In line with the general post-war trend of involving provinces in Indian affairs, provincial child welfare agencies co-operated in determining cases of neglect and in placing children in care. Residential schools were an available and apparently popular option within the wider child care system.

As the integration program expanded, many residential schools, particularly in southern Canada, where the rate of progress was most extensive, became, to a degree alarming to the department, repositories for 'neglected' children.[103] A confidential 1966 departmental report estimated that 75 per cent of children in the schools were "from homes which, by reasons of overcrowding and parental neglect or indifference, are considered unfit for school children."[104] This trend caused a serious bottleneck in the process of reducing enrolments. It might have been remedied by providing support to families in communities to "alleviate the situations where children year in and year out are being removed from their homes and the home situation [remains] practically the same."[105] The more usual methods, however, appear to have been either the referral of children requiring long-term care "to a child welfare agency for foster home service" or adoption

or the placement of "incorrigible" children with "an officer of a correctional or welfare agency."[106]

As the department characterized the situation, this welfare bottleneck put it in

> the anomalous position of having to administer a group of schools which have a degree of independence of operation permitting them to pursue policies which are diametrically opposed to those of the Federal Government, particularly with respect to segregation and welfare. The tension created by this internal conflict is damaging to the Indian education program and confusing to the Canadian public.[107]

Much of this conflict sprang from opposition to integration that the department had, in fact, anticipated from its old partner in education, the churches, and from "some Indian associations who dislike working with provincial governments, and from individuals, both Indian and non-Indian, who, for personal reasons, wish to keep the federal schools open."[108]

Church opposition came almost exclusively from the Catholic church,[109] which fought particularly hard in western Canada where, as the department noted, perhaps cynically, provinces "do not provide for separate schools".[110] According to the church, its position was purely altruistic. In *Residential Education for Indian Acculturation*, a study produced in 1959 by the Oblate Indian and Eskimo Welfare Commission, the church argued that separate on-reserve education in day schools or separate residential school education provided greater educational benefits and had greater "efficiency towards acculturation". Residential schools, in addition, provided

> healthier living conditions, more appropriate supervision, better grouping by grade and more vocational training possibilities than the average day school. It is also usually in a better position to offer a wider range of social and recreational activities including those with non-Indians.[111]

The church conducted an aggressive political campaign in the late 1950s and into the 1960s through the reserve-based Catholic Indian League to save the schools it managed and particularly to extend high school services through residential schools.[112] Each closure was a battle by "pulpit, press and politicians"[113] but they were made, school by school, normally by a complicated process of closing residences with low enrolments and transferring the remaining children to others, all the while carefully retaining the single denominational affiliation of each school.[114]

In 1969, the federal government obviated the need for that careful process when it formally ended the partnership with the churches, effectively secularizing Aboriginal education.[115] The department then had almost unrestrained

control of the residential school system. The rate of closures in the next decade bore witness to that; by 1979, the number of schools had fallen from 52 with 7,704 students to 12 with 1,899.

The withdrawal of the churches did not clear the way forward completely, however. Bands and political associations insisted on consultation when closures were proposed and pushed for "increased responsibility in the management of student residences".[116] In that same vein, the National Indian Brotherhood proposed in 1971 that "residence services be contracted to Indian groups having the approval of the bands served by the respective residences."[117] Communities connected with the Blue Quills school not only prevented its closure but forced the government to turn it over to the people of the Saddle Lake-Athabaska district.[118] The need for such co-operation became paramount after the government accepted, in 1972, the principle of Indian control of Indian education. In line with that, the department adopted the position that "major changes in the operation and administration of individual residences will be considered only in consultation with Indian parents or their representatives."[119] In the next few years six more schools in Saskatchewan followed the Blue Quills lead. By 1986, apart from a continued funding responsibility for such schools, the department virtually came to the end of the residential school road.[120]

The introduction of integration, the context for the final closure or transfer of the schools, was not the only significant development in the post-war period. As the nation moved north, further penetrating Indian, Métis and Inuit homelands, a whole new tier of schools was created in the Northwest Territories.

Northern Aboriginal peoples had not been untouched by the residential school system in the pre-war period. Schools in British Columbia, Alberta, Saskatchewan, Ontario and Quebec had taken in children from far northern communities. Yukon Indians were served by the Anglican residential school begun at Carcross in 1902 and by the Catholic Lower Post School in British Columbia.[121] In the Northwest Territories, residential schools operated at Fort Providence, Aklavik and Fort Resolution. Inuit students had been concentrated at the Roman Catholic and Anglican residential schools at Aklavik and Fort George on the eastern coast of James Bay in Quebec. There were, as well, federal and missionary day schools.[122]

In March 1955, the government, through the Department of Northern Affairs and National Resources, incorporated these largely church-initiated developments into an official educational strategy.[123] This administrative arrangement had been chosen to allow "a single system of schools for children of all races", facilitating "greater economy of effort" and removing "any element of segregation".[124] There any substantial differences with the southern system ended. The presumptive scenario and educational philosophy, the vision and the attitudes toward Aboriginal people that underlay this system, bore considerable resemblance to what they had been in the south. Growing scarcity in the

resources that supported the traditional hunting and gathering culture, caused in part by incursions into the region by resource development, combined with a dramatic fall in the price of fur and the rapid growth of population – tied, the government suggested, to improved medical services[125] – provided both the need and the opportunity for a new life. It was the government's announced belief that as "[c]ivilization is now advancing into the Arctic areas at such a rapid pace...[it] is therefore essential that [Aboriginal people] be assisted in every possible way to face the future in a realistic manner – in a way which will result in their becoming true Canadian citizens...".[126]

That assistance was to come primarily by way of "an extensive program of construction of schools and hostels to provide better education."[127] By 1969-1970, as plans were finalized to transfer education to the government of the Northwest Territories,[128] the Northern Affairs department had completed a network of schools that included eight "large pupil residences", with room for an average of 150 children each, and a series of some eleven "small hostels" for up to 25 children in Arctic locations. The annual enrolment averaged some 1,200 children.[129]

Despite the fact that this development occurred in the 1950s and '60s, the 'frontier' nature of the north meant that the system stressed the value of residential schools and hostels. They were characterized, in this latest assimilative campaign, in terms that harked back to Davin's era, as "the most effective way of giving children from primitive environments, experience in education along the lines of civilization leading to vocational training to fit them for occupations in the white man's economy."[130] As in the south, the hostels brought children of "nomadic parents" into contact with day schools to facilitate the "complete integration of the education of the Indians and Eskimos in the north with white children living in the same area." Again, the system would employ the acculturative medium of "provincial curricula", with teachers being "encouraged to adapt these to the special needs of the Eskimo child."

Residential schools and hostels were to make not only an educational contribution but also, Northern Affairs predicted, a wider socializing, civilizing function that would serve educational advancement. With respect to Inuit, for example, they would have the advantage of removing children from homes that lacked "all the more desirable habits of sanitation, cleanliness and health since the tents and snow houses in which they live are so small and their way of life is so primitive." In the schools, it would be possible to carry out "adequate health education programmes" which, with improvements on the traditional diet, would "make them better able to carry on with their schooling", which would in turn ensure their "orderly integration into the white economy."[131]

In the north, as in the south in the days before integration, the government with its church partners presumed to stand in the place of the children's parents,

taking children into residential schools so that they could "face the future in a realistic manner" – that being as "true Canadian citizens". Unfortunately, the record of this national presumption, whether traced in the north or the south cannot be drawn as a "circle of civilized conditions."

2. Systemic Neglect: Administrative and Financial Realities

In any evaluation of the residential school record throughout its long history, a persistent reality appears amidst shifting vision and policies. Not only did the system fail to transport Aboriginal children through the classroom to the desired assimilative destination – or even, as Davey's 1968 record witnessed, to provide adequate levels of education – it failed to cherish them. In the building, funding and management of those purported "circles of civilized conditions", it failed to make of those schools homes where children would always be well-clothed and fed, safely housed and kindly treated. Even in the post-war period, administrative and financial reforms adopted in the midst of the general reorganization of Aboriginal education could not retrieve the situation and did not reverse the chronic neglect of the system, which forced children to live in conditions and endure levels of care that fell short of acceptable standards.

The persistently woeful condition of the school system and the too often substandard care of the children were rooted in a number of factors: in the government's and churches' unrelieved underfunding of the system, in the method of financing individual schools, in the failure of the department to exercise adequate oversight and control of the schools, and in the failure of the department and the churches to ensure proper treatment of the children by staff. Those conditions constituted the context for the neglect, abuse and death of an incalculable number of children and for immeasurable damage to Aboriginal communities.

This is not the story of an aging nineteenth century structure falling into decay but of flaws, inherent in the creation and subsequent management of the system, that were never remedied. From Confederation, with two schools in operation, the system grew at the rate of some two schools a year, so that by 1904 there were 64 schools. Such growth was not the product of forethought, of a developmental strategy controlled by the government or by the department of Indian affairs. Rather it was the product of federal reactions to the force of missionary efforts across the country and the considerable force of the churches' political influence in Ottawa by which they secured funds to operate the schools.[132] No better summary of the process of building the system can be given than that contained in a departmental briefing to the minister, Charles Stewart, in 1927: "It thus happens that Churches have been pioneers in the remote

parts of the country, and with missionary funds have put up buildings and induced the department to provide funds for maintenance."[133]

Though its senior officials were themselves dedicated to the concept of residential education, the department was in a sense driven before a whirlwind of missionary activity. No matter which way it turned – in the west, the north and into British Columbia – as it moved to implement Davin's industrial school design, the department found schools already constructed and holding classes for children. By 1907 – with 77 schools on the books, the great majority of them established by the churches, and with no sign of the flood of new schools or church petitions for support waning – the senior clerk in the education section, Martin Benson, proclaimed, with evident exasperation, "The clergy seem to be going wild on the subject of Indian education and it is time some limit should be fixed as to their demands."[134]

Indeed, the department had already tried, unsuccessfully, to bring the system, especially its rapidly rising costs, under control. By order in council in 1892, the department introduced what Vankoughnet termed a "correct principle" – a per capita grant arrangement that remained in force until 1957.[135] This principle was attractive because, in theory at least, it would enable the department to "know exactly where we stand", limiting the federal contribution to the schools to a fixed annual figure tied to enrolments.[136]

This attempt by the department to "relieve the pressure of present expenditure" and to institute "economical management" on the part of the churches, to quote the order in council, was a total failure. In limiting the liability of the department, the per capita system automatically threw an increased financial burden onto the shoulders of the churches. In the case of schools where the per capita grant did not meet a large enough part of the operating costs, which were impossible to standardize owing to the differing circumstances of schools – location, access to supplies, the availability of students – or where school management continued to be faulty, churches soon claimed that their funds were oversubscribed. They returned to Ottawa, cap in hand, for additional funding and yearly made demands for increases in per capita rates. By 1904, the collective deficit was $50,000 and rising, and the auditor general demanded yet tighter control – "A rigid inspection of financial affairs should be made on behalf of the government at least once a year."[137]

The auditor general was not alone in pushing for reform. In 1906 the Protestant churches submitted their Winnipeg Resolutions, drawn up at a conference on education. These reiterated demands they had been making each year for increased per capitas, upgrading of schools at government expense, and increased allocations for teachers' salaries.[138] The resolutions and the deputy superintendent general's admission that the financial ills of the system lay in underfunding[139] rather than, as the department charged constantly, in the inefficient and extravagant hands of church appointed principals, brought on the

second attempt to bring order to the system. This took the form of contracts between the government and the churches, signed in 1911, in which, the minister promised,

> the whole conduct and management of these schools would be covered...the responsibilities of each toward the other would be definitely fixed and the financial straits in which the churches found themselves...would in a measure be relieved by the Government.[140]

The minister was as good as his word – in part. New, higher per capita rates, recognizing regional cost differences, were adopted,[141] and the contracts dealt with the obligations of the churches and the government, establishing the department as senior partner in the joint management of the schools. It had primary responsibility for setting standards of care and education, including the appointment and dismissal of teachers, and it reserved the right to cancel the contract pertaining to any school not being operated according to the regulations it formulated. To that end, the churches had to hold the schools ready for inspection by the department.[142]

The contracts were meant to mark a new beginning for the system, laying the basis for "improved relations" between the department and the churches that were in turn to result "in benefit to the physical condition and intellectual advancement of the Indian children."[143] Such hopeful predictions were not, however, the substance of effective reform. The system soon fell back into funding and management difficulties. The contracts were to be reviewed and renewed at the end of five years, but they never were and without any legal agreement to bind the parties, they drifted back into the previous "unbusinesslike lack of arrangement"[144] and into discord over operation of the system.

On the financial front, government intentions were overborne by a long string of excuses for continued underfunding. The First World War and then the Depression prevented significant increases or clawed back, in whole or part, those the department was able to allocate.[145] While the Second World War pulled the country out of the Depression, it also meant cuts "to almost every appropriation"[146] and made the department realize that "it would be exceedingly difficult to secure the funds necessary...at any time during the years that lie ahead of us."[147]

As a result, there were never enough funds in the pre-Second World War era to satisfy the appetite of the churches or to prevent them from again encountering substantial deficits.[148] While the department publicly contested the churches' assertion of how desperate the financial situation was, privately it had its own figures that demonstrated dramatically that the per capita, pegged at $180 in 1938, was "exceptionably low" and inadequate for the needs of the children, particularly in relation to the funding of other residential care facilities. Hoey informed the deputy superintendent general, H. McGill, that the province of Manitoba provided grants of $642 and $550 per capita respectively to the

School for the Deaf and the School for Boys. Private institutions in the province were also funded more generously. The Knowles School for Boys received $362 for each boy from the Community Chest, and the Catholic church provided St. Norbert's Orphanage with $294 per capita. The residential schools fared no better in comparison with funding for similar institutions in the United States, where the Child Welfare League of America estimated that the average per capita grant of large child care institutions was $541, with smaller ones running only as low as $313.[149]

The cumulative weight of underfunding of the system throughout this period, which pressed down on the balance books of the churches and the department and drove individual schools into debt, was nothing compared to its consequences for the schools and their students. Badly built, poorly maintained and overcrowded, the schools' deplorable conditions were a dreadful weight that pressed down on the thousands of children who attended them. For many of those children it proved to be a mortal weight. Scott, reviewing the history of the system for the new minister, Arthur Meighen, in 1918, noted that the buildings were "undoubtedly chargeable with a very high death rate among the pupils."[150]

When the churches and the department signed the 1911 contracts, it was clear to all the partners that there was a crisis in the conditions and sanitation of the schools and, therefore, in the health of the children. They could not have failed to know it for they had at hand two reports, one by the department's chief medical officer, Dr. P.H. Bryce, outlining in a most sensational manner the tragic impact of tuberculosis on the children, and another by a departmental accountant, F.H. Paget, who had been detailed to survey the condition of the schools in the west.

Throughout the initial stages of the unrestrained building of the system, the department had been, Duncan Campbell Scott admitted, "intensely apprehensive" about the quality and safety of the schools, which the churches routinely "erected on very primitive plans".[151] According to an assessment of the system by Martin Benson in 1897, the department's own record was not a great deal better. Many of the buildings it was responsible for constructing, in association with the department of public works, had "been put up without due regard for the purpose for which they would be required, hurriedly constructed of poor materials, badly laid out without due provision for lighting, heating or ventilating."[152] The department had, in fact, insisted in the north-west on the "simplest and cheapest construction."[153]

Paget's 1908 report revealed the legacy of such a policy. The majority of the 21 schools he inspected were, like St. Paul's boarding school near Cardston, Alberta, "quite unfit for the purpose it is being used", with faulty heating, drainage and ventilation. The schools were "not modern in any respect." Moreover, his comments drew out what had become a tragic commonplace in

the department – the connection between the condition of the buildings and disease, particularly the scourge of tuberculosis.[154] From early in the history of the system, alarming health reports had come into the department from local officials and doctors tracing out a pattern of interwoven factors contributing to "the present very high death rate from this disease": overcrowding, lack of care and cleanliness and poor sanitation.[155]

Overcrowding, the most critical dynamic in the spread of tuberculosis, was systemic,[156] a predictable outcome of underfunding and of the per capita grant arrangement that put a premium on each student taken from a community. Senior church officials lobbied the government constantly not only for higher rates but for implementation of a compulsory education regime that would ensure that the schools earned the maximum grant possible.[157] For their part, the principals, unable to make ends meet, as rates were rarely increased to the level of real costs, pushed to have their authorized enrolments raised. The pressure to keep schools full meant there was a tendency to take as many children as possible, often going past wise limits, with disastrous consequences.[158] This led to bizarre recruitment techniques, including, local officials reported, "bribing and kidnapping".[159] As well, officials were not very careful about the health of the children they brought into the schools. The Anglican Bishop of Caledonia in British Columbia admitted candidly, "The per capita grant system encourages the taking in of those physically and intellectually unfit simply to keep up numbers".[160]

The impact of Bryce's report, submitted in 1907, which in part only repeated what was already in departmental files, stemmed from his statistical profile of the extent of tuberculosis among children in western schools. It became the stuff of headlines and critical editorial comment. *Saturday Night* concluded that "even war seldom shows as large a percentage of fatalities as does the education system we have imposed upon our Indian wards."[161] The percentage was indeed shocking. Bryce's death toll for the 1,537 children in his survey of 15 schools was 24 per cent, and this figure might have risen to 42 per cent if the children had been tracked for three years after they returned to their reserves.[162] The rate varied from school to school going as high as 47 per cent at Old Sun's on the Blackfoot reserve. Kuper Island school in British Columbia, which was not included in Bryce's sample, had a rate of 40 per cent over its 25-year history.[163] While a few officials and churchmen rejected Bryce's findings and attacked him as a "medical faddist",[164] most had to agree with him,[165] and no less an authority than Scott asserted that, system-wide, "fifty per cent of the children who passed through these schools did not live to benefit from the education which they had received therein."[166]

Not only was this, in the words of *Saturday Night*, "a situation disgraceful to the country",[167] but in the opinion of S.H. Blake, QC, who assisted in negotiations for the 1911 contracts, because the department had done nothing over the decades "to obviate the preventable causes of death, [it] brings itself within

unpleasant nearness to the charge of manslaughter."[168] The churches too bore responsibility for what Bryce characterized, in a pamphlet published in 1922, as a "national crime",[169] but the department had a special responsibility. In the order in council of 1892 and in the 1911 contracts, it had taken to itself the authority to set standards and had instituted a regulation requiring that prospective students receive a health certificate signed by a doctor. This check, which would supposedly prevent tubercular children being taken into the schools, was – like so many other regulations relating to care of the children, such as those regarding clothes, food and discipline – implemented carelessly by the department and ignored by many school and departmental officials. Such laxity even continued, Scott admitted, in the decades after Bryce's report.[170]

Indeed, in those decades, almost nothing was done about tuberculosis in the schools, so that Bryce's charge that "this trail of disease and death has gone on almost unchecked by any serious efforts on the part of the Department of Indian Affairs",[171] was sorrowfully correct. The department did not even launch a full investigation of the system. Again the explanation for this persistent carelessness was, in part, the government's refusal to fund the schools adequately to carry out a program of renovations to improve health conditions, which senior officials themselves proposed, or to undertake special measures, recommended by health authorities, to intervene in the case of sick children.[172] In a number of instances it did implement, because it was relatively cheap, a radical course of action – mass surgery, performed on school tables, to remove teeth, tonsils and adenoids, believed to be the frequent seats of infection.[173] Not surprisingly, conditions did not improve; schools in 1940 were still not being maintained "in a reasonable state",[174] and the few reports extant on the health of the children, which are scattered and sketchy (for the department never set up a procedure to monitor health) point to the continuation of alarmingly high rates of infection.[175]

The dramatic tuberculosis story, which chronicles what Bryce suggested was the government's "criminal disregard" for the "welfare of the Indian wards of the nation",[176] cannot be allowed to distract attention from the fact that the care of the children in almost every other area was also tragically substandard. Throughout the history of the system many children were, as the principal of St. George's testified in 1922, "ill-fed and ill-clothed and turned out into the cold to work", trapped and "unhappy with a feeling of slavery existing in their minds" and with no escape but in "thought".[177]

It is difficult to assess how widespread neglect was in the area of food and clothing, for again the department had no reporting procedure, and there is evidence of a fair deal of duplicity on the part of the churches, or individual principals, anxious to make the most favourable impression. A comment in 1936 by A. Hamilton, a local departmental official, on the children at Birtle school, just outside Birtle, Manitoba, symbolizes the situation.

> In fairness I want to add that all the children have good clothes but these are kept for Sundays and when the children go downtown – in other words when out where they can be seen, they are well dressed.[178]

Such deception was often quite deliberate. "To almost everything at Round Lake", one teacher admitted, "there are two sides, the side that goes in the report and that inspectors see, and the side that exists from day to day."[179] This phenomenon was widespread. It was common practice that when an official wanted to add weight to a school report, he introduced it with the remark, "There was no preparation made for my visit as I was quite unexpected."[180] When it was known the official was coming, the children could be and were cowed into answering questions about their care in the way school administrators wanted.[181]

Despite the duplicity, reports in departmental files from school staff, local agents and inspectors establish that the system did not guarantee that all children were always properly fed and clothed. Hunger was a permanent reality: the food was often "too meagre";[182] the fare was not appropriate "neither as to quantity or quality";[183] the children "were not given enough to eat especially meat";[184] the food supply was inadequate "for the needs of the children"; the "vitality of the children is not sufficiently sustained from a lack of nutritious food, or enough of the same for vigorous growing children."[185]

The same files carry images of the children that disrupt Hamilton's picture of Sunday downtown dress at Birtle school: "I have never seen such patched and ragged clothing";[186] their "uniform is so old and so worn out that we do not dare show them to anyone";[187] the children "are not being treated at all good, nothing on their feet, etc.";[188] the children were "dirty and their clothes were disgraceful";[189] and "I never had in my school a dirtier, more ill-clad or more likeable class of little folk". The children had

> the most ridiculous outfits. The little girls go teetering around in pumps with outlandish heels, sizes too large, or silly little sandals that wont stay on their feet – cheap lots that he [the principal] buys for next to nothing, or second hand misfits that come in bales.[190]

Those "second hand misfits that come in bales" signify that in these areas of care, the lack of funding by the government and the churches was yet again a major determinant in the treatment of the children. Whenever per capita rates were reduced or seen to be too low, someone was bound to point out that it would "render almost superhuman the task of feeding, clothing and treating the children in the manner required by the department."[191] It was often "utterly impossible" to do that "from the present per capita grant",[192] and thus principals took the tack of "economizing to the bone in every possible department."[193] In 1937, Hoey conceded that throughout the history of the system there had never been any connection between "our payments and the cost of feeding and clothing

pupils from year to year" and that principals had been left on their own to deal with "the actual costs of operation."[194]

While the resultant 'economizing' may have meant no more than charity clothes in some cases, in terms of food, the consequences were more drastic and damaging to the education and health of the children. To keep costs down, administrators strove to produce food and income from the school farm or orchard – an undertaking in which the children, in Scott's description of Qu'Appelle, were "simply used as so much manpower to produce revenue."[195] As his comment suggests, the department was fully aware of the situation and, indeed, of the way it undercut the education program, in some instances, as at Birtle, turning it on its head. Hamilton commented, after visiting the school, that "The farm should be operated for the school – not the school for the farm."[196] Agent W. Graham's 1916 review of school records at Qu'Appelle found that, owing to work, the boys were in class so infrequently that "the main idea and object of the school is being entirely neglected" and that the school had become a "workhouse".[197] This practice continued until 1951 when the half-day system was abandoned. At Morley school in Saskatchewan the inspector reported that, to the detriment of their education, the principal threw "a large burden of the institutional drudgery on to the children."[198]

Underfunding, short rations and overwork contributed, doctors and agents across the system reported, to the children's ill-health, and some doctors even alerted the department to a connection they observed between malnutrition and tuberculosis.[199] Furthermore, the range and quality of food the children did receive was affected by efforts to economize. It was a widespread practice "to sell most of the milk and eggs...in order to augment maintenance funds".[200] Inspector R.H. Cairns was so disturbed by this practice in the British Columbia schools, and in particular by milk skimming to collect cream for sale, that he declared, "if I had my way I would banish every separator....The pupils need the butter fat so much."[201]

By many departmental accounts, the variety of food served was limited; "decidedly monotonous" was the way Benson described the "regulation school meal" in 1897 – "bread and drippings or boiled beef and potatoes".[202] In fact, there appears to have been a persistent shortage of meat and fish which, unlike grains and vegetables, were difficult to secure in bulk and to store.[203] Ironically, children entering a school likely left behind a better diet, provided by communities still living on the land, than what was provided by the churches and the department.

Unfortunately, it is impossible to assess the nutritional value of school diets before 1946. In that year, however, the nutrition division of the department of national health and welfare surveyed the food services at eight schools. Though the department characterized the results as "fairly satisfactory", the report itself did not support such a conclusion but rather confirmed the impressions given

by the files throughout the history of the system. The dietitians found that "mediocre" salaries secured kitchen staff who were "unqualified", carried out their "work in a careless and uninterested fashion" and thus "the food quality was not good". Poor menu planning that failed to recognize the nutritional value of certain foods, equipment that was "unfit", "antiquated cooking facilities", and bad cooking practices contributed to the "nutritional inadequacy of the children's diet", which lacked sufficient amounts of vitamins A, B and C. The children received too little meat and not enough green vegetables, whole grains, fruit, juices, milk, iodized salt and eggs.[204]

The dietitians laid much of the blame for the conditions they described on "financial limitations" – the same limitations that plagued every other aspect of the system and always led in the end to neglect of the children. With the benefit of hindsight, Davey's 1968 review of the system up to 1950 acknowledged that fact. Neither the churches nor the department, he charged,

> appeared to have had any real understanding of the needs of the children....The method of financing these institutions by per capita grants was an iniquitous system which made no provision for the establishment and maintenance of standards, even in such basic elements as staffing, food and clothing.[205]

All that was to have changed in 1957, when the department brought an end to the per capita system and placed the schools on a "controlled cost basis" intended to achieve "greater efficiency in their operation" as well as to assure proper "standards of food, clothing and supervision at all schools." This system was formalized by new contracts with the churches signed in 1961. The government was prepared to "reimburse each school for actual expenditures within certain limitations."[206] Those limitations were translated into allowances – maximum rates set for teachers' salaries, transportation, extra-curricular activities, rental costs, building repairs and maintenance, and capital costs.

In terms of standards of care, the department strove to bring the budgeting process more into line with the children's needs and regional cost differentials. In particular, with food and clothing, it attempted "to make special provision for the requirements of older children." Thus in calculating the allowances for food and clothes, the children were divided into two groups, those in grade 6 and lower grades and those in grade 7 or higher grades, with appropriate rates assigned to each.[207] In addition, as early as 1953, the department began to issue directives to the schools on issues of care, and more detailed reporting procedures by principals were developed.

None of this was enough, however, to prevent a continuation of problems still endemic in the system. The post-1957 record of the controlled cost system was not an improvement over the previous decades. There was in fact an underlying contradiction between the intention to close down the system and that of

keeping the schools in peak physical condition. Davey himself signalled this in recommending that "expenditures should be limited to emergency repairs which are basic to the health and safety of the children" in cases "where closure is anticipated, due to integration".[208] Budgeting favoured integration, which was at the centre of the department's education strategy. In a detailed brief to the department in 1968, the national association of principals and administrators of Indian residences pointed out that in the allocation of funds, the integration program received a much greater proportion, resulting in a situation where "our Federal schools are sadly neglected when compared with the Provincial schools."[209] Indeed, a report commissioned by the department established in 1967 that the funding level was still very "low in comparison with most progressive institutional programs" in the United States and in the provincial sector.[210]

The principals' association went on to detail the effects of underfunding in a school-by-school survey that echoed the Paget report – a long system-wide catalogue of deferred maintenance, hazardous fire conditions, inadequate wiring, heating and plumbing, and much needed capital construction to replace structures that were "totally unsuitable and a disgrace to Indian affairs". Even schools built since the war to serve communities in areas outside the scope of integration gave evidence of faulty construction and inadequate recreation, residence and classroom space. In conclusion, the association tried to impress upon the department the seriousness of the situation. It was not prepared to accept the "old cliche: lack of funds". That was "not an excuse, nor an explanation for we know that funds do exist."[211]

In a memo from Davey forwarded to the deputy minister along with the association's brief, he admitted that,

> Although I can take exception to some of the examples given in the brief, the fact remains that we are not meeting requirements as we should nor have we provided the facilities which are required for the appropriate functioning of a residential school system.[212]

It was impossible to do so, for there were simply "too many of these units" and the department was too heavily committed in other areas of higher priority – in community development, integration and welfare expenditures. Nor did he think it was wise to devote effort to achieving increased appropriations for, with "the best interests of the Indian children" in mind, it was more sensible to close the system down.[213]

The deputy minister, J.A. Macdonald, followed this line in his reply to the principals. There was no attempt to refute their characterization of the condition of the system. The department had failed, he conceded, to carry out "necessary repairs and renovations and capital projects". This had been "simply due to financial limitations", which he was sure, taking refuge in the "old cliche",

would not improve in the future.[214] In the final analysis, however, the funds were inadequate and, as the association asserted, it was always the children who were "the first to feel the pinch of departmental economy".[215]

Schools that were part of the northern affairs system after 1955 had their own doleful history and were not above the sort of critique made by the principals' association. A harsh review of the operation of Fort Providence school concluded with the remark, "I would sooner have a child of mine in a reform school than in this dreadful institution."[216] As in the south, the system did not ensure that adequate food and clothing and safe and healthy conditions were provided for all the children all the time. There was always, as at the Tent Hostel at Coppermine, for example, some considerable distance between intention and reality. One of the teachers there submitted a remarkable report on a hostel term during which the staff and Inuit children had had a "satisfactory and happy experience", despite the fact that their accommodations were "very cold because all the heat escaped through the chimneys, there was a constant fire hazard", the children's clothes were "unsatisfactory", and the children received a most non-traditional diet of corn beef and cabbage at most dinners, while the staff ate their "monthly fresh food supply" at the same table, so as to give "the youngsters an opportunity to model their table manners from those of the staff".[217] A consulting psychologist, after a visit to the Churchill Vocational Centre, which was housed in an army barracks, commented that "I know what a rat must feel when it is placed in a maze." When he moved on to two schools in the Keewatin area, he found the buildings equally unsuitable.[218]

The history of Indian affairs' post-1957 determination to ensure high standards of care was no brighter than its record of repair and maintenance. At the end of the very first year of the operation of the controlled cost system, the department, on the advice of the churches and the nutrition division of the federal health department, had to raise rates, adjust the grade divisions and introduce a supplementary allowance to recognize additional costs for schools "where climatic conditions necessitate special clothing."[219] Such fine tuning became a permanent feature of the 1957 system. It was, unfortunately, always fruitless, for the funds provided by the department to feed and clothe the children continually lagged behind increases in cost, and thus the sorrowful consequences for the children went unrelieved.[220]

There was no improvement after 1969, when the government and the churches parted ways and the department took direct control of the system. A subsequent survey in the Saskatchewan region revealed that allowances were not adequate to provide proper clothes, especially for children in hostels who were attending provincial schools, or food or recreational activities. One administrator reported that he had to serve "more often than we should food such as hot dogs, bologna, garlic sausages, macaroni etc....the cheapest food on the market and still I can hardly make it."[221] Most of the others in the survey – and by

implication most administrators and, therefore, most children in the system – were having the same experience.[222]

As in the case of tuberculosis, failure to provide adequate nutrition was rooted not only in the iniquitous per capitas and chronic underfunding, but in the fact that departmental regulations intended to guarantee good care were administrative fictions. From the beginning of the system, and subsequently in the order in council of 1892 and the 1911 contracts, the department stipulated that to receive funds schools had to be "kept up to a certain dietary [standard]"[223] – a regulated scale of rations outlining the foodstuffs and the amounts children were to receive weekly. This engendered considerable controversy between the department and the churches over the adequacy of the scale, how realistic it was given the level of grants, and the degree to which the principals adhered to it.[224] In fact, the 'dietary' was largely ignored by everyone, including the department which did not, according to Benson, inspect the schools on any regular basis.[225] Benson even repudiated the scale, explaining in 1904 that "it is not now and was never enforced" and that it was only ever a "guide...to arrive at the cost of feeding pupils."[226] Thereafter, any pretence that there was actually an enforceable regulation was abandoned and, in 1922, the churches and principals were given responsibility for drawing up their own meal plans, which the department was willing to submit to the "Health Department in Ottawa for their criticism."[227]

In subsequent decades, the department's relationship with nutrition services at the department of health remained purely consultative, with consultations being so irregular that the service told Indian affairs in 1954 that they had "almost lost touch with most of the residential schools due to the lack of requests for our services."[228] After 1957, the inspection service expanded, inspections became more regular, and food allowances were "established to provide a standard equivalent to the diet recommended by Canada's Food Rules".[229]

What did not change however, was the department's lax manner of responding to recommendations in inspection reports. Like the dietary standards of the earlier part of the century, they were not enforced but routinely passed along to principals with no more than a suggestion that everything be done "that can be done to live up to the recommendations of the dietician." Problems were thrown back into the laps of principals, who were to "see what can be done about them in a constructive way."[230] Despite the department's regulatory authority, which tied grants to the maintenance of standards, there was no stern intervention on behalf of the children, so that even the most egregious neglect by church authorities and principals could drag on unresolved for years.[231] In light of such careless management, what Hamilton wrote of Elkhorn school in 1944 might stand as the motto of the system: "It is not being operated, it is just running."[232]

In reviewing the long administrative and financial history of the system – the way the vision of residential education was made real – there can be no dispute: the churches and the government did not, in any thoughtful fashion, care

for the children they presumed to parent. While this is traceable to systemic problems, particularly the lack of financial resources, the persistence of those problems and the unrelieved neglect of the children can be explained only in the context of another deficit – the lack of moral resources, the abrogation of parental responsibility. The avalanche of reports on the condition of children – hungry, malnourished, ill-clothed, dying of tuberculosis, overworked – failed to move either the churches or successive governments past the point of intention and on to concerted and effective remedial action.

Neglect was routinely ignored, and without remedial action, it became a thoughtless habit. It was, however, only one part of a larger pattern of church and government irresponsibility writ more starkly in the harsh discipline, cruelty and abuse of generations of children taken into the schools. Here, too, the record is clear. When senior officials in the department and the churches became aware of cases of abuse, they failed routinely to come to the rescue of children they had removed from their real parents or, as they claimed ironically in the case of Category 3, children they had rescued from situations of neglect in communities.

3. Discipline and Abuse

> ...the failure to regard the children as persons capable of responding to love.[233]

At the heart of the vision of residential education – a vision of the school as home and sanctuary of motherly care – there was a dark contradiction, an inherent element of savagery in the mechanics of civilizing the children. The very language in which the vision was couched revealed what would have to be the essentially violent nature of the school system in its assault on child and culture. The basic premise of resocialization, of the great transformation from 'savage' to 'civilized', was violent. "To kill the Indian in the child", the department aimed at severing the artery of culture that ran between generations and was the profound connection between parent and child sustaining family and community. In the end, at the point of final assimilation, "all the Indian there is in the race should be dead."[234] This was more than a rhetorical flourish as it took on a traumatic reality in the life of each child separated from parents and community and isolated in a world hostile to identity, traditional belief and language.

The system of transformation was suffused with a similar latent savagery – punishment. Prompt and persistent obedience to authority, order and discipline – what Davin referred to as "the restraints of civilization"[235] – were virtues of a civilized society, and in its homes, schools and judicial systems, punishment was one of its servants. Children removed from "permissive" Aboriginal cultures would be brought to civilization through discipline and punishment and would become, in the course of time, civilized parents able naturally to "exercise proper

authority"[236] over the next generation of children. In the vision of residential education, discipline was curriculum and punishment an essential pedagogical technique. It could, one senior official advised, "produce circumstances to supplement and aid direct teaching." In fact, he continued, in terms of learning English, it "will lead to its acquirement more quickly than direct teaching."[237] Father Lacombe's experience in managing the High River industrial school in its first year of operation, 1884, a year in which almost all the children ran away or were removed by their parents, led him to conclude that "It is a mistake to have no kind of punishment in the Institution....It is absurd to imagine that such an institution in any country could work properly without some form of coercion to enforce order and obedience."[238]

Few principals would make that "mistake", and thus discipline and punishment in the service of cultural change formed the context of the children's lives. At school, they lived by a meticulous regimen of early rising, working, worshipping, learning and, finally, resting. Punishment for "insubordination",[239] for transgressing that regime and thus challenging the authority of the schoolmasters was pervasive and to some observers poisonous. In 1936, G. Barry, district inspector of schools in British Columbia, described Alberni school on Vancouver Island, "where every member of staff carried a strap" and where "children have never learned to work without punishment."[240] Another critic, who saw the same negative implications of this tyranny of routinization, charged that at Mt. Elgin, "They learn to work under direction which doesn't require, and even discourages, any individual acting or thinking on their part. Punishment goes to those who don't keep in line."[241]

To "keep them in line", as Lacombe's successor at High River, Reverend E. Claude, explained, children could be deprived of food, confined or lectured. He tried to avoid "using too vigorous means with regard to the most rebellious tempers such as blows etc."[242] but he had no cause for concern on that score. Punishment, including striking children, was well within the bounds of non-Aboriginal community standards for most of the period covered by the history of the school system. Comments made by the deputy superintendent general, Vankoughnet, in 1889 on discipline – that "obedience to rules and good behavior should be enforced" by means including "corporal punishment"[243] – reflected such standards. There were, however, limits; there was always a line between acceptable chastisement and abuse. Children should not be, Hayter Reed stated in 1895, "whipped by anyone save the Principal", and if they were, "great discretion should be used and they should not be struck on the head, or punished so that bodily harm might ensue."[244]

Corporal punishment should not become, Reed thought, "a general measure of discipline";[245] inherent in the operation of the schools, however, was always the dangerous potential for just that eventuality – for not only the culture of corporal punishment instituted at Alberni and Mt. Elgin but also abuse,

for situations in which deprivation verged on starvation, strapping became beating, and lecturing became the verbal abuse of ridicule and public indignity. For the staff, the schools were in many cases not peaceful or rewarding places to work; they were not havens of civilization. Rather they were, owing to the per capita grant system, sites of struggle against poverty and, of course, against cultural difference and, therefore, against the children themselves.

Isolated in distant establishments, divorced from opportunities for social intercourse, and placed in closed communities of co-workers with the potential for strained interpersonal relations heightened by inadequate privacy, the staff not only taught but supervised the children's work, play and personal care.[246] Their hours were long, the remuneration below that of other educational institutions, and the working conditions irksome. Thus the struggle against children and their culture was conducted in an atmosphere of considerable stress, fatigue and anxiety that may well have dulled the staff's sensitivity to the children's hunger, their ill-kempt look or their ill-health and often, perhaps inevitably, pushed the application of discipline over the line into abuse and transformed what was to be a circle of care into a violent embrace. Although there were caring and conscientious staff, not every principal, teacher or employee was of the desired moral character; outside the gaze of public scrutiny, isolated from both Aboriginal and non-Aboriginal communities, schools were the opportunistic sites of abuse.

And abuse there was – identified as such by those inside the system, both in the churches and in the department. Head office, regional, school and church files are replete, from early in the system's history, with incidents that violated the norms of the day. In 1896, Agent D.L. Clink refused to return a child to the Red Deer school because he feared "he would be abused". Without ever being reprimanded by the principal, a teacher had beaten children severely on several occasions, one of whom had to be hospitalized. "Such brutality," Clink concluded, "should not be tolerated for a moment" and "would not be tolerated in a white school for a single day in any part of Canada."[247] A senior official in western Canada, David Laird, submitted a report on Norway House in 1907 detailing "frequent whippings" over an eight-year period of a young boy, Charlie Clines, for bedwetting. The "severity of his punishment" was not, Laird asserted, "in accordance with Christian methods."[248]

The result of Charlie Clines' punishment was what became an all too familiar episode. In "constant dread of the lash", Charlie finally fled. He slept out "in weather so severe that his toes were frozen and he...will lose them."[249] Hundreds of children ran away because, the assistant deputy of the department explained in 1917, of "frequent punishment" and "too much hard work" and "travelled through all sorts of hardships to reach their distant homes".[250] Many, however, did not make it to their communities and when the trail was followed back to the school from which an injured or dead child had fled, it led almost inevitably to conditions of neglect, mistreatment and abuse.[251] It was a commonplace

within the system that, in the words of one local agent, "there is certainly something wrong as children are running away most of the time." Subsequent investigations would discover, not surprisingly, that "conditions at the school are not what they should be."[252]

This certainly was the case, for example, in two quite representative tragedies in British Columbia. In 1902, Johnny Sticks found his son, Duncan, dead of exposure, having fled from the Williams Lake industrial school. Nearly four decades later, in 1937 at the Lejac school, four boys ran away and were found frozen to death on the lake within sight of their community. They were wearing only summer-weight clothes. In both cases, investigations uncovered a history of neglect and violence in evidence given by staff, children and some graduates.

At the Williams Lake inquest, Christine Haines explained why she had run off twice in the past: "...the Sisters didn't treat me good – they gave me rotten food to eat and punished me for not eating it." She was locked in a room, fed bread and water and beaten "with a strap, sometimes on the face, and sometimes [they] took my clothes off and beat me – this is the reason I ran away." Other children, including Duncan's sister, made the same charges. The sister responsible for the girls denied such brutal treatment but admitted that girls had been locked up, one for as long as 12 days.[253]

At Lejac, one graduate, Mrs. S. Patrick, recalled, "Even when we just smiled at one of the boys they gave us that much" – 30 strokes with the strap on each hand – and when they spoke their own language, the sister "made us take down our drawers and she strapped us on the backside with a big strap." At this school, too, food was an issue. Mrs. Patrick told the department's investigator, Indian commissioner D. MacKay, "Sometimes we ate worms in the meat, just beans sometimes and sometimes just barley." The new principal admitted that there had been a regime of severe punishment at the school but that he would bring the school into line with community norms and operate it, in regard to punishment, "along the line of the provincial public schools." MacKay's central recommendation was appropriate not only to the Lejac case but to the whole school system. "My investigation leads me to the conclusion that the department should take steps to strengthen its administrative control of our Indian Residential Schools through the full use of the privilege which it reserves of approving the more important appointments of these schools."[254] In 1937, this suggestion was long overdue. The system was out of control; its record of abuse had grown more sorrowful each decade, and it was, as MacKay implied, a problem the department had not dealt with.

MacKay was correct. Here again, as in other areas of care, the department laid claim to authority to establish standards – its "privilege" as MacKay termed it – then failed in its self-appointed responsibility. Scott himself had laid out that claim forcefully in 1921. In a letter to the principal of Crowfoot school, where a visiting nurse had discovered nine children "chained to the benches" in the

dining room, one of them "marked badly by a strap", Scott stated that the department would not countenance "treatment that might be considered pitiless or jail-like in character." The children "are wards of this department and we exercise our right to ensure proper treatment whether they are resident in our schools or not."[255]

Unfortunately, Scott's word was not the department's bond. It did not exercise its right to "ensure proper treatment."[256] Senior officials had made pronouncements on discipline to individual principals[257] and Reed, when he was deputy superintendent general in 1895, had suggested that "Instructions should be given if not already sent to the Principals of the various schools."[258] But comprehensive regulations on the acceptable means and limits to punishments were never issued, despite requests by more junior departmental employees,[259] and thus principals and staff behaved largely as they saw fit. Children were frequently beaten severely with whips, rods and fists, chained and shackled, bound hand and foot and locked in closets, basements, and bathrooms, and had their heads shaved or hair closely cropped.[260]

There was more to this irresponsibility than simply a failure of regulation and oversight. There was a pronounced and persistent reluctance on the part of the department to deal forcefully with incidents of abuse, to dismiss, as was its right, or to lay charges against school staff who abused the children. Part of that pattern was an abrogation of responsibility, the abandonment of the children who were "wards of the department"[261] to the churches, which in their turn failed to defend them from the actions of members of their own organizations.

All these factors are made clear in a series of cases in western Canada brought to the attention of the department by W. Graham, beginning with an incident at Crowstand school in 1907. Graham, then an inspector of Indian agencies, reported that Principal McWhinney had, when retrieving a number of runaway boys, "tied ropes about their arms and made them run behind the buggy from their houses to the school." Referring the matter to a senior member of the Presbyterian church, the department suggested that the principal be dismissed. The church refused, for its investigation had found no reason to fault the principal's action: he had, it was claimed, tied the boys to the wagon only because there was no room inside; the distance was only some eight miles, and the boys did not have to run the whole way, as "the horses trotted slowly when they did trot and they walked a considerable part of the way." The department greeted this response with the cynicism it deserved. Benson saw these "lame arguments" as an attempt to "whitewash McWhinney". The church held firm, however. Despite a continuing record of ill-treatment of children and rising opposition to the school on the part of parents – which led Scott to demand in 1914 that McWhinney be transferred – he was kept on.[262]

In 1919, Graham forwarded reports to the department from a local agent and a police constable describing the case of a runaway from the Anglican Old

Sun's school. On being brought back, the boy had been shackled to a bed, had his hands tied, and was "most brutally and unmercifully beaten with a horse quirt until his back was bleeding". The accused, P.H. Gentlemen, admitted using a whip and shackles and that the boy "might have been marked." Again, the department turned to the church for its 'advice'. Canon S. Gould, the general secretary of the Missionary Society, mounted a curious defence – such a beating was the norm "more or less, in every boarding school in the country." Scott accepted this, and Gentlemen remained at the school. Graham was irate, writing to Scott that "instead of placing this man in a position of responsibility, where he might repeat his disgraceful acts, he should have been relieved of his duties."[263]

In 1924, Graham brought forward another incident – the beating of a boy until he was "black from his neck to his buttocks" at the Anglican MacKay school in Manitoba. When he learned that the department had turned over investigation of the case to the church, Graham's reaction showed just how ingrained and corrosive this practice had become. "Chances are", he wrote, "it will end like all the other cases" and thus would undermine further the vigilance of local departmental staff, as they believed that "where the churches are concerned there is no use sending an adverse report, as the department will listen to excuses from incompetent Principals of the schools more readily than to a report from our Inspectors based on the facts as they find them."[264]

Unfortunately, Graham was proved right. The agent, J. Waddy, confirmed in a letter to Scott that the punishment of this boy, and indeed of others by the principal, Reverend E. Bird, had been excessive. Bird admitted that he had marked the boy, but the church exonerated him, and the department let the matter drop. But this was not the end of it. The very next year another boy fled from the school "almost naked and barefoot" and was found after a week in the bush "nearly out of his mind" from being "whaled black and blue". One of the non-Aboriginal men who saw the boy before he was taken to the hospital warned that if the department did nothing, he would contact the "SPCA like he would if a dog was abused." Graham assumed that the department would realize that the time had come when "the services of this principal should be dispensed with." Scott, however, asked Gould to give the case "your customary careful attention." Bird was exonerated again, and when Graham attacked the church's investigation for ignoring everyone except the school staff, he was put in his place by the secretary of the department: "I have to assure you that the Department has dealt with this question seriously and I feel that no further action is advisable at present."[265]

In these and in dozens of other cases, no further action was ever taken, and thus abusive situations at many schools remained unresolved. In 1931, Graham wrote to Scott, after yet another bad report on MacKay, "I have not had good reports on this school for the past ten years, and it seems that there is no improvement. I think the Department should have the whole matter cleared

up."[266] That the department seemed inherently incapable of following Graham's advice was part of the long established habit of neglect. But it stemmed, as well, from the fact that the department did not think it advisable to contradict the churches in these matters. The church was a force to be reckoned with in the national political arena and therefore in the school system. Calling for a tightening of regulatory guidelines in his 1897 report, Benson complained that the churches had "too much power."[267] In that light, he noted, in 1903, the department had "a certain amount of hesitancy in insisting on the church authorities taking the necessary action."[268]

Some officials certainly feared church influence and thought the department should as well. Agent A. Daunt, who conducted an inquiry into a 1920 incident at Williams Lake involving the suicide of one boy and the attempted mass suicide of eight others, admitted that he felt it unwise to accept the evidence of children, for "to take action on that will bring a religious hornets nest around the ears of the Department, unless the reverence in which the missionaries are held in the East has undergone a great change since I lived there."[269] Scott may not have feared those clerical hornets, but he certainly carried forward Benson's "hesitancy" throughout his long career as deputy superintendent general between 1913 and 1933, persistently deferring to church advice on issues of abuse. Chronic reluctance to challenge the churches and to insist upon the proper treatment of the children, together with the churches' persistent carelessness in the face of neglect and abuse by their members, became central elements in the pattern of mishandling abuse as long as the system continued to operate.

The department was not simply overawed by influential churches that refused to accept criticism of their treatment of children or disciplining of their staff. The department was complicit. In the face of criticism, and when abuse or neglect was revealed, too often it seemed to feel not sympathy for the children but its own vulnerability. For the department, the school system was an important symbol. As plans were being laid for the opening of the Shubenacadie school in Nova Scotia, Scott noted that it would be sited "within full view of the railway and highway, so that the passing people will see in it an indication that our country is not unmindful of the interest of these Indian children."[270] He was not, however, careful of that interest when it came into conflict with the reputation of the system and the department. In 1922, a journalist passed on to Scott a letter from a boy at the Onion Lake school detailing "how we are treated", in particular the lack of food.[271] Despite having departmental reports that confirmed the charges, Scott advised against publication, for the boy was not trustworthy and, in fact, he said, "ninety-nine percent of the Indian children at these schools are too fat."[272]

Such misinformation, which tried to ensure that the public could see the schools but not see *into* them, was another significant element in the management of the system. The importance of the civilizing mission far outweighed issues of justice for the children. The inspector of Indian agencies in British

Columbia, referring to an incident in which two girls were sexually "polluted" by male students, assured the department in 1912 that "it has been kept from the public, and I trust in the interest of the department's educational system, that it will remain so."[273] Members of that public, including parents, Indian leaders and journalists, felt the sting of aggressive departmental attacks when their criticism came too close to the bone.[274]

The department may have been unnecessarily anxious about public opinion. Through inquests, eye witness reports and newspaper articles, some information about abuse and neglect escaped the system. None of it, however – not even the shocking revelations of the Bryce report – elicited any sustained outcry or demand for reform. The issue of Aboriginal people had been consigned to the darker reaches of national consciousness. Thus the children remained trapped and defenceless within that "circle of civilized conditions", which was impervious both to criticism from without and to the constant evidence of abuse from officials within the department.

In the post-war era, as a part of the reorganization of the school system heralded by the new funding arrangement of 1957 and the contracts of 1961, the department did issue directives on punishment. As early as 1949, guidelines for strapping children were distributed to principals. They were expanded in 1953 and 1962,[275] but the focus remained on strapping, and other forms of punishment that continued to be commonly applied – confinement and deprivation of food, head shaving, and public beatings – were not specifically prohibited. As was the case in other areas of care, departmental intentions to improve standards – indicated by regulations, but by little else – were insufficient to solve the problem.

In southern schools, and in the northern affairs system too, children continued to be abused. From Turquetil Hall, Chesterfield Inlet, in the Northwest Territories, to the Kamloops school and across the country to Shubenacadie, the voices of Inuit, Indian and Métis adults who were children in those or other schools can now be heard describing the dreadful experiences suffered at the hands of church or departmental staff.[276] Writing in 1991 of her experience in both Anglican and Catholic schools, Mary Carpenter told an all too familiar story:

> After a lifetime of beatings, going hungry, standing in a corridor on one leg, and walking in the snow with no shoes for speaking Inuvialuktun, and having a heavy, stinging paste rubbed on my face, which they did to stop us from expressing our Eskimo custom of raising our eyebrows for 'yes' and wrinkling our noses for 'no', I soon lost the ability to speak my mother tongue. When a language dies, the world it was generated from is broken down too.[277]

Many of those stories, or certainly ones like them, were already known to church and government officials. In 1965, in preparation for the first Residential School Principals' Conference, the department asked six 'successful' former

students to give their views on the schools. Two of them were brutally frank, describing the school experience as "an insult to human dignity." One listed the punishments meted out at the "mushole", the Mohawk Institute at Brantford, Ontario. Besides the usual beatings, "I have seen Indian children having their faces rubbed in human excrement...the normal punishment for bedwetters...was to have his face rubbed in his own urine", and for those who tried to escape, "nearly all were caught and brought back to face the music". They were forced to run a gauntlet where they were "struck with anything that was at hand....I have seen boys crying in the most abject misery and pain with not a soul to care – the dignity of man!"[278]

Some did get away from the schools, however, and some of those children met their deaths.[279] Other children tried to find escape in death itself. In June 1981, at Muscowequan Residential School, "five or six girls between the ages of 8 and 10 years had tied socks and towels together and tried to hang themselves." Earlier that year, a 15-year-old at the school had been successful in her attempt.[280]

A former employee of one school reported that the principal regularly entered classrooms and would "grab these children by the hair & pull them out of their seat" and then "thrash them unmercifully with a leather strap for no apparent reason."[281] Such incidents were not necessarily met with stern references to the directives by departmental employees. An incident at another school provides an illustration of the more common response. Two boys were beaten, leaving "marks all over the boys bodies, back, front genitals etcetera." Sweeping aside confirmation by a doctor, the department's regional inspector of schools for Manitoba conceded only that such punishment had "overstepped the mark a little", but as the boys had been caught trying to run away, "he had to make an example of them."[282]

"Coercion to enforce order and obedience"[283] – to the degree that it constituted a reign of disciplinary terror, punctuated by incidents of stark abuse – continued to be the ordinary tenor of many schools throughout the system.[284] In that light there can be no better summary comment on the system and the experience of the children than the rather diplomatic description of Pelican Lake school by the Bishop of Keewatin in 1960:

> The Pelican Lake [school] has over the past many years suffered a somewhat unhappy household atmosphere. Too rigid regimentation, a lack of homelike surroundings and the failure to regard the children as persons capable of responding to love, have contributed at times to that condition. Children unhappy at their treatment were continually running away.[285]

As this description implies, the department and the churches knew something else about the system, and they knew it years before the voices of former students

made the schools, their history and their consequences such a part of the public discourse on Aboriginal/government relations. They knew that the record of abuse and mistreatment being compiled by the school system comprised more than the sum of innumerable acts of violence against individual children. There were, in addition, pervasive and equally insidious consequences for all the children – for those who had been marked and for those whose scars were less visible but, perhaps, no less damaging.

From early in the history of the residential school system, it was apparent that the great majority of children leaving the schools – unlike the few 'successes' the department was able to consult in 1965 – rarely fit the vision's model of the enfranchiseable individual. In some manner, the educational process – an integral part of which was the system's overweening discipline, the "regimentation" noted at Alberni and Mt. Elgin – was counter-productive, undercutting the very qualities that were the prerequisites for assimilation – "individual acting and thinking",[286] the development of "individuality and self control", so that "children are prepared to accept responsibility" and "take their place in our democratic way of life."[287]

At the same time this phenomenon had darker hues. Local agents gave notice that not only did children not undergo a great transformation, but they became stranded between cultures, deviants from the norms of both. In 1913, one agent reviewing the record of children who had come home from McWhinney's Crowstand school, commented that there were "far too many girl graduates...turning out prostitutes, and boys becoming drunken loafers."[288] Another agent, writing in 1918, opposed the schools because a much greater number of former students than children who had remained in the community were "useless", unable to get on with life on the reserve, and fell foul of the law. It would be, he concluded, "far better that they never go to school than turn out as the ex-pupils...have done."[289] In 1960, a Catholic bishop informed the department that the "general complaint made by our Indian Youth brought up to court shortly after leaving school for various reasons is that they cannot make a decent living nor have a steady job because they have not education to compete with their white neighbours."[290]

Whether the bishop was correct, and those youth ended up in trouble because they did not have enough education, or whether it was the wrong sort of education and a severely debilitating experience, was not normally a matter for inquiry. However, in the late 1960s, the department and the churches were forced to face the fact that there were severe defects in the system. The former students consulted in 1965 were unanimous in the opinion that for most children, the school experience was "really detrimental to the development of the human being." Isolated from both the Aboriginal and the non-Aboriginal community, schools were "inclined to make robots of their students", who were quite incapable of facing "a world almost unknown to [them]."[291]

More critically, the former student perspective was confirmed forcefully in 1967 by a report from George Caldwell of the Canadian Welfare Council. Caldwell submitted a scathing evaluation of nine schools in Saskatchewan:

> The residential school system is geared to the academic training of the child and fails to meet the total needs of the child because it fails to individualize; rather it treats him en masse in every significant activity of daily life. His sleeping, eating, recreation, academic training, spiritual training and discipline are all handled in such a regimented way as to force conformity to the institutional pattern. The absence of emphasis on the development of the individual child as a unique person is the most disturbing result of the whole system. The schools are providing a custodial care service rather than a child development service. The physical environment of the daily living aspects of the residential school is overcrowded, poorly designed, highly regimented and forces a mass approach to children. The residential school reflects a pattern of child care which was dominant in the early decades of the 20th century, a concept of combined shelter and education at the least public expense.[292]

While most of the report looked at the failure of the schools to achieve the goal of effective socialization, Caldwell did devote some attention to the consequences of that failure for children after they left school. Therein lay an even more "disturbing result." Caldwell confirmed what some local agents had observed decades before – that not only were children ill-prepared for life and work in Canadian society but that they were unable to deal with the unique reality facing former students. A product of both worlds, they were caught in "the conflicting pulls between the two cultures" – the "white culture of the residential school" and subsequently "the need to readapt and readjust to the Indian culture." Central to the "resolution of the impact of the cultural clash for the...child is an integration of these major forces in his life." Unfortunately, "few children are equipped to handle this struggle on their own",[293] though they would be left to do just that, to deal alone with the trauma of their school experience. Caldwell did not say, and the department never asked, how that struggle might be, or had been for generations, playing itself out in the lives of children, the families they returned to, the families and children they gave birth to, and their communities.

What Caldwell's report did venture was that his Saskatchewan findings could be replicated in schools throughout the system.[294] Though opposed by some churchmen, this position was supported by others. A consulting psychologist, for example, having interviewed and tested Inuit students, concluded that "the educational problems encountered in the Keewatin Area are there because the Southern white educational system, with all its 'hangups' has been transported to the North." Those educational problems included "a range of

emotional problems", including "anxious kids, fearful kids, mildly depressed kids, kids with poor self-images...".[295]

For its part, the department, far from being prepared to dispute Caldwell's conclusions, welcomed and even amplified them in what amounted to its own serious critique of the system. Officials in the regions and in Ottawa declared authoritatively that "more injury is done to the children by requiring them to leave their homes to attend Residential schools than if they are permitted to remain at home and not receive a formal education."[296] This was all suspiciously self-interested, however, for the department, pushing integration, used Caldwell's view that the schools were not an "environment to foster healthy growth and development"[297] as a counter-weight against those who argued for the retention of a particular school or, more broadly, for the continuation of separate and residential education. In what is perhaps the darkest irony in the history of the school system, the department acted vigorously on its failure, never having acted vigorously in the past to prevent the decades of "injury...done to children by requiring them to leave home." Soon, however, the department and the churches had to begin to face that issue of "injury"[298] – the product of the long unbroken history of abuse, mistreatment and neglect of children and of the sustained attack on Aboriginal culture.

4. Epilogue

...hurt, devastated and outraged.[299]

In December 1992, Grand Chief Edward John of the First Nations task force group forwarded to the minister of justice of the day, Kim Campbell, "a statement prepared and approved by B.C. First Nations Chiefs and leaders". In it, they pointed out that

> The federal government established the system of Indian residential schools which was operated by various church denominations. Therefore, both the federal government and churches must be held accountable for the pain inflicted upon our people. We are hurt, devastated and outraged. The effect of the Indian residential school system is like a disease ripping through our communities.[300]

The chiefs' conclusion was not a rhetorical flourish; it was literally true. By the mid-1980s, it was widely and publicly recognized that the residential school experience, in the north and in the south, like smallpox and tuberculosis in earlier decades, had devastated and continued to devastate communities. The schools were, with the agents and instruments of economic and political marginalization, part of the contagion of colonization. In their direct attack on language, beliefs and spirituality, the schools had been a particularly virulent strain

of that epidemic of empire, sapping the children's bodies and beings. In later life, many adult survivors, and the families and communities to which they returned, all manifested a tragic range of symptoms emblematic of "the silent tortures that continue in our communities".[301] In 1990 Chief Ed Metatawabin of the Fort Albany First Nation community told the minister, Tom Siddon, that

> Social maladjustment, abuse of self and others and family breakdown are some of the symptoms prevalent among First Nation Babyboomers. The 'Graduates' of the 'Ste Anne's Residential School' era are now trying and often failing to come to grips with life as adults after being raised as children in an atmosphere of fear, loneliness and loathing.
>
> Fear of caretakers. Loneliness, knowing that elders and family were far away. Loathing from learning to hate oneself, because of the repeated physical, verbal or sexual abuse suffered at the hands of various adult caretakers. This is only a small part of the story.[302]

What finally broke the seal on the residential school system that had been affixed by Duncan Campbell Scott, making public the story of neglect and physical and cultural abuse, was, ironically, the deepest secret of all – the pervasive sexual abuse of the children. The official files efface the issue almost completely. There is rarely any mention of sexual behaviour that is not a concern about sexual activity among the children, which led administrators to segregate them and lock them away at night to prevent contact.[303] Any other references were encoded in the language of repression that marked the Canadian discourse on sexual matters. Clink at Red Deer commented that "the moral aspect of affairs is deplorable";[304] others wrote of "questions of immorality"[305] of "the breaking of the Seventh Commandment."[306] When the issue of sexual abuse emerged, this dearth of information became the first block in the foundation of a departmental response. In 1990, the director of education in the British Columbia region formulated an answer to any question about past abuse:

> The sad thing is we did not know it was occurring. Students were too reticent to come forward. And it now appears that school staff likely did not know, and if they did, the morality of the day dictated that they, too, remain silent. DIAND staff have no record or recollection of reports – either verbal or written.[307]

None of the major reports – Paget, Bryce, or Caldwell – that dealt critically with almost every aspect of the system mentioned the issue at all; that fell to Aboriginal people themselves. Responding to abusive conditions in their own lives and in their communities, "hundreds of individuals have stepped forward with accounts of abuse in at least 16 schools."[308] Women and men – like Phil Fontaine, the leader of the Assembly of Manitoba Chiefs, who attended the

Fort Alexander school – "went out on the limb to talk...because they wanted to make things better."[309] They did more than just talk, more than just speak their pain and anguish; they and their communities acted. Steps were taken to form support groups and healing circles. Beginning in 1989-1990, abusers, including former residential school staff, were accused, taken to court in British Columbia and the Yukon, and convicted in each case of multiple counts of gross indecency and sexual assault. This set off a chain of police investigations and further prosecutions.[310]

These testimonies opened the floodgates of memories, and they poured out before the public. The trials, though far from being the first acts of resistance, may have had their greatest impact in validating the general critique of the system. In the long history of the schools, protests from parents and communities about conditions in the schools and the care of the children had not been uncommon. Many parents had struggled to protect their children, to prevent them being taken to schools, or petitioned for their return. More often than not, however, they had been brushed aside by the churches and the government. Even the initiatives that achieved their immediate goal – securing better food or calling for an inspection of the school, for example – never amounted to a serious challenge to the way the system operated, and thus they fell on stony ground.[311]

Times changed, however. In the 1980s, that public ground was well watered by growing concern for the safety of women and children in Canada and harrowed by reports of the sexual abuse of non-Aboriginal children at orphanages like Mount Cashel in Newfoundland and at the Alfred reform school in Ontario. Reflecting such concerns, the government set up a family violence and child abuse initiative, allocating funds for community-based projects dealing with sexual abuse and family violence.[312] Non-Aboriginal Canadians found that Aboriginal revelations and their attack on the schools, and on the disastrous consequences of federal policy in general, fell within the parameters of their own social concerns, and thus non-Aboriginal voices joined the chorus of condemnation.

Experts working for government and Aboriginal organizations confirmed the connections made by Aboriginal people between the schools' corrosive effect on culture and the dysfunction in their communities. Experiential testimony, combined with professional analysis that charted the scope and pathology of abuse, put that reality beyond any doubt or dispute. In 1990, the *Globe and Mail* reported that Rix Rogers, special adviser to the minister of national health and welfare on child sexual abuse, had commented at a meeting of the Canadian Psychological Association that the abuse revealed to date was "just the tip of the iceberg" and that closer scrutiny of treatment of children at residential schools would show that all children at some schools were sexually abused.[313]

Abuse had spilled back into communities, so that even after the schools were closed their effects echoed in the lives of subsequent generations of children. A 1989 study sponsored by the Native Women's Association of the Northwest Territories found that eight out of 10 girls under the age of eight had been victims of sexual abuse, and 50 per cent of boys the same age had been sexually molested as well.[314] The cause was no mystery to social scientists. Researchers with the child advocacy project of the Winnipeg Children's Hospital, who investigated child abuse on the Sandy Bay reserve and other reserves in Manitoba, concluded in their report, *A New Justice for Indian Children*, that although the "roots of the problem are complex", it is "apparent that the destruction of traditional Indian culture has contributed greatly to the incidence of child sexual abuse and other deviant behaviour."[315] Consultants working for the Assembly of First Nations amplified this behaviour, detailing the "social pathologies" that had been produced by the school system.

> The survivors of the Indian residential school system have, in many cases, continued to have their lives shaped by the experiences in these schools. Persons who attend these schools continue to struggle with their identity after years of being taught to hate themselves and their culture. The residential school led to a disruption in the transference of parenting skills from one generation to the next. Without these skills, many survivors had had difficulty in raising their own children. In residential schools, they learned that adults often exert power and control through abuse. The lessons learned in childhood are often repeated in adulthood with the result that many survivors of the residential school system often inflict abuse on their own children. These children in turn use the same tools on their children.[316]

A central catalyst in that cycle of abuse were those powerful adults, men and women, employees of the churches and the department. In the years after 1969, when the church/state partnership in education was dissolved, the churches had boxed the political compass, so that at the highest levels and in the most public forums, they supported Aboriginal aspirations. In 1975, the Catholic, Anglican and United Churches formed Project North (the Aboriginal Rights Coalition) to co-ordinate their efforts in Aboriginal campaigns for justice; they were later joined by the Presbyterian church and other denominations. All of them, however, continued at the community level their historical missionary efforts within a new-found tolerance for Aboriginal spirituality.

By 1992, most of the churches had apologized, regretting, in the words of one of the Catholic texts, "the pain, suffering and alienation that so many have experienced."[317] However, as they told the minister in a joint communication through the Aboriginal Rights Coalition in August 1992, they wanted it

recognized that they "share responsibility with government for the consequences of residential schools", which included not only "individual cases of physical and sexual abuse" but also "the broader issue of cultural impacts":

> ...the loss of language through forced English speaking, the loss of traditional ways of being on the land, the loss of parenting skills through the absence of four or five generations of children from Native communities, and the learned behaviour of despising Native identity.

They ended with an offer of fellowship, a re-creation of the old alliance. "We as churches encourage you, Mr. Siddon, to address the legacy of residential schools with greater vigour". In any such undertaking, they assured him their "moral support and...any experience we gain in responding to this legacy as churches."[318]

Having only just brought an end to the residential school era, the federal government found that "the disclosures, criminal convictions and civil actions related to sexual abuse" forced it to consider that "legacy" and to "determine a course of action."[319] It was not lacking advice on the direction it should take. From all quarters, Aboriginal and non-Aboriginal, the government was encouraged to institute a public inquiry. A private citizen warned the minister that refusing to do so would be "an indication of your gross insensitivity to the staggering effect on its victims of the crime of sexual abuse." He went on to argue passionately that, more so than in the case of other crimes,

> sexual abuse of children thrives on the unwillingness of society to deal with it out in the open. So long as we as a society permit 'past events' to remain buried, no matter how painful, we cannot hope to halt the shocking epidemic that we are facing.[320]

In the House of Commons, Rod Murphy, the member for Churchill, rose in November 1990 to "urge the government to commission an independent inquiry", which he was confident would "assist the healing process for the victims of this abuse".[321] Réginald Bélair, the member for Cochrane-Superior, struck the same note in a letter to the minister. "How can the healing process begin without those who were responsible for these injustices publicly acknowledging the wrongs that were done to these children?"[322]

Within the department, Mr. Murphy's sentiments and calls for an inquiry found no apparent support. There was certainly no suggestion that full public disclosure would have any therapeutic value. Files covering the years 1990 to 1992 reveal that the department accepted the basic premise that the schools' extensive record of abuse meant that "many young innocent people have suffered"[323] and that the system had contributed to the "loss of culture and familial disruption."[324] It was recognized that the "serious psychological, emotional and social sequelae of child sexual abuse are well established" and that "there was

a need to address these problems among former victims...their families and communities."[325] On the question of how that should be done it was first suggested that "Although much of the abuse has happened in the past, the department must take some responsibility and offer some solutions to this very serious problem."[326] This was superseded by a more characteristically cautious "framework to respond to incidents of abuse and the resultant effects on Indian communities". On what "is a major issue for DIAND...It is important that DIAND be seen as responding in a way that liability is not admitted, but that it is recognizing the sequelae of these events."[327]

By December 1992, when the minister, Tom Siddon, replied to the August communication from the Aboriginal Rights Coalition, the government had developed its response fully. It would not launch a public inquiry. Suggestions that it do so were met with a standard reply. "I am deeply disturbed by the recent disclosures of physical and sexual abuse in the residential schools. However, I do not believe that a public inquiry is the best approach at this time."[328]

Nor did the government follow the churches' lead in extending an apology for the residential school system. To anyone who might suggest such a course, the minister was prepared to point out that in June 1991, at the first Canadian conference on residential schools, a former assistant deputy minister, Bill Van Iterson, had "expressed on behalf of all public servants in the department, a sincere regret over the negative impacts of the residential schools and the pain they have caused to many people." There would be no ministerial apology, no apology on behalf of Canadians, and there were no plans for compensation.[329]

The strategy the government adopted was a simple one. Essentially, it tried to externalize the issue, throwing it back onto the shoulders of Aboriginal people themselves. Under the guise of being "strongly committed to the principles of self-government", as Mr. Siddon informed the Aboriginal Rights Coalition in December 1992, the government would concentrate its efforts on "enabling First Nations to design and develop their own programs according to their needs."[330] It was committed "to working with Indian and Inuit communities to find ways to address this problem at the community level and to begin the healing of these wounds."[331] To facilitate such programs the government supplemented its family violence and child abuse initiative in 1991 with provisions and funds directed specifically to Aboriginal concerns.[332] In an echo of the old per capita debates, the coalition, in reviewing the funding, informed the minister "that these amounts are still relatively modest when looking at the deep and widespread nature of the problems."[333]

The approach to legal issues, particularly the identification and prosecution of purported abusers, was equally diffuse. There was no consideration that the system itself constituted a 'crime'. Rather, the focus was placed on individual acts that violated the *Criminal Code*. Again, the government would not take the lead. There would be no internal inquiry, no search of departmental files.

"DIAND will not without specific cause, initiate an investigation of all former student residence employees."[334] It would be the task of those who had been abused to take action. They would be directed to "the appropriate law enforcement agency, and DIAND will continue to cooperate fully with any police investigation."[335] The assistance they might receive from the department would be "as open as possible", with due respect to "the privacy rights of individuals."[336]

Such policies may well have been dictated by the norms of the criminal justice system and may even be appropriate in terms of community demands for funding and control. But there is in this a cynical sleight of hand. The government has refused to apologize or to institute a special public inquiry and instead wishes to concentrate on the 'now' of the problem, the 'savage' sick and in need of psychological salvation. This is an attempt to efface the 'then', the history of the system, which, if it were considered, would inevitably turn the light of inquiry back onto the source of that contagion – on the 'civilized' – on Canadian society and Christian evangelism and on the racist policies of its institutional expressions in church, government and bureaucracy. Those are the sites that produced the residential school system. In thought and deed this system was an act of profound cruelty, rooted in non-Aboriginal pride and intolerance and in the certitude and insularity of purported cultural superiority.

Rather than attempting to close the door on the past, looking only to the future of communities, the terrible facts of the residential school system must be made a part of a new sense of what Canada has been and will continue to be for as long as that record is not officially recognized and repudiated. Only by such an act of recognition and repudiation can a start be made on a very different future. Canada and Canadians must realize that they need to consider changing their society so that they can discover ways of living in harmony with the original people of the land.

The future must include making a place for those who have been affected by the schools to stand in dignity, to remember, to voice their sorrow and anger, and to be listened to with respect. With them Canada needs to pursue justice and mutual healing; it must build a relationship, as the Manitoba leader and much decorated veteran Thomas Prince encouraged the government to do in his appearance before the joint committee of the Senate and the House of Commons in 1947, that will bind Aboriginal and non-Aboriginal people "so that they can trust each other and...can walk side by side and face this world having faith and confidence in one another."[337]

5. The Need for a Public Inquiry

We must carefully assess the nature, scope and intent of Canada's residential school strategy. We must carefully assess the role of the church. We must listen carefully to the survivors. We must thoroughly review

> the options available to Aboriginal people for restitution and redress. We must carefully consider how it might be possible to achieve justice after all that has been wrought by residential schools.
>
> Wendy Grant, Vice-Chief
> Assembly of First Nations
> Canim Lake, British Columbia, 8 March 1993

Redressing the wrongs associated with the residential school system will involve concerted action on a number of fronts. We make a number of recommendations elsewhere in our report that bear directly on residential schooling. In particular, in Volume 3, our recommendations concerning an Aboriginal university include the recommendation that the federal government fund the establishment and operation of a national Aboriginal archive and library to house records concerning residential schools (see Volume 3, Chapter 3). Also in Volume 3, our recommendations concerning health and healing include the recommendation that the federal government take immediate steps to ensure that individuals suffering the effects of physical, sexual or emotional abuse have access to appropriate methods of healing (see Volume 3, Chapter 4). The remainder of this chapter addresses the need for further inquiry and investigation into the profound cruelty inflicted on Aboriginal people by residential school policies.

Our research and hearings indicate that a full investigation into Canada's residential school system, in the form of a public inquiry established under Part I of the *Public Inquiries Act*, is necessary to bring to light and begin to heal the grievous harms suffered by countless Aboriginal children, families and communities as a result of the residential school system.[338] The public inquiry's main focus should be to investigate and document the origins, purposes and effects of residential school policies and practices as they relate to all Aboriginal peoples, with particular attention to the manner and extent of their impact on individuals and families across several generations, on communities, and on Aboriginal society as a whole. The inquiry should conduct public hearings across the country, with sufficient funding to enable those affected to testify. The inquiry should be empowered to commission research and analysis to assist in gaining an understanding of the nature and effects of residential school policies. It should be authorized to recommend whatever remedial action it believes necessary for governments and churches to ameliorate the conditions created by the residential school experience. Where appropriate, such remedies should include apologies from those responsible, compensation on a collective basis to enable Aboriginal communities to design and administer programs that assist the healing process and rebuild community life, and funding for the treatment of affected people and their families.[339]

We believe that a public inquiry into residential schools is an appropriate social and institutional forum to enable Aboriginal people to do what we and others before us have suggested is necessary: to stand in dignity, voice their sorrow

and anger, and be listened to with respect. It has often been noted that public inquiries perform valuable social functions. In the words of Gerald Le Dain, a public inquiry

> has certain things to say to government but it also has an effect on perceptions, attitudes and behaviour. Its general way of looking at things is probably more important in the long run than its specific recommendations. It is the general approach towards a social problem that determines the way in which a society responds to it. There is much more than law and governmental action involved in the social response to a problem. The attitudes and responses of individuals at the various places at which they can affect the problem are of profound importance.
>
> What gives an inquiry of this kind its social function is that it becomes, whether it likes it or not, part of this ongoing social process. There is action and interaction...Thus this instrument, supposedly merely an extension of Parliament, may have a dimension which passes beyond the political process into the social sphere....The decision to institute an inquiry of this kind is a decision not only to release an investigative technique but a form of social influence as well.[340]

A public inquiry is also an appropriate instrument to perform the investigative function necessary to understand fully the nature and ramifications of residential school policies. As Marius Tungilik told us at our public hearings, "We need to know why we were subjected to such treatment in order that we may begin to understand and heal."[341] A public inquiry benefits from independence and flexibility in this regard. As stated in a working paper of the Law Reform Commission of Canada,

> Investigatory commissions supplement the activities of the mainstream institutions of government. They may investigate government itself, a function that must clearly fall to some body outside the executive and public service. They possess an objectivity and freedom from time constraints not often found in the legislature. They can deal with questions that do not require the application of substantive law by the courts. And they can reasonably investigate and interpret matters not wholly within the competence of Canada's various police forces.[342]

Given the range of subjects contemplated by our terms of reference, it was not possible for the Royal Commission to perform these social and investigative functions to the extent necessary to do justice to those harmed by the effect of Canada's residential school system. We hope that this chapter of our report opens

a door on a part of Canadian history that has remained firmly closed for too long. In our view, however, much more public scrutiny and investigation are needed. A public inquiry into Canada's residential school system would be an indispensable first step toward a new relationship of faith and mutual confidence.

Recommendations

The Commission recommends that

Public Inquiry **1.10.1**

Under Part I of the *Public Inquiries Act,* the government of Canada establish a public inquiry instructed to

(a) investigate and document the origins and effects of residential school policies and practices respecting all Aboriginal peoples, with particular attention to the nature and extent of effects on subsequent generations of individuals and families, and on communities and Aboriginal societies;

(b) conduct public hearings across the country with sufficient funding to enable the testimony of affected persons to be heard;

(c) commission research and analysis of the breadth of the effects of these policies and practices;

(d) investigate the record of residential schools with a view to the identification of abuse and what action, if any, is considered appropriate; and

(e) recommend remedial action by governments and the responsible churches deemed necessary by the inquiry to relieve conditions created by the residential school experience, including as appropriate,

- apologies by those responsible;
- compensation of communities to design and administer programs that help the healing process and rebuild their community life; and
- funding for treatment of affected individuals and their families.

Aboriginal Majority **1.10.2**

A majority of commissioners appointed to this public inquiry be Aboriginal.

National Repository

1.10.3

The government of Canada fund establishment of a national repository of records and video collections related to residential schools, co-ordinated with planning of the recommended Aboriginal Peoples' International University (see Volume 3, Chapter 5) and its electronic clearinghouse, to

- facilitate access to documentation and electronic exchange of research on residential schools;
- provide financial assistance for the collection of testimony and continuing research;
- work with educators in the design of Aboriginal curriculum that explains the history and effects of residential schools; and
- conduct public education programs on the history and effects of residential schools and remedies applied to relieve their negative effects.

Notes

1. This chapter is based on extensive original research conducted for the Royal Commission by John Milloy of Trent University. Research on the school system was conducted in a number of archives: the National Archives of Canada in Ottawa, the Presbyterian, Anglican and United church archives in Toronto, and the Deschatelets Archives of the Oblates of Mary Immaculate in Ottawa. These represent the most significant public documentary collections for the history of the school system. There are, however, other records in regional, provincial and diocesan archives throughout Canada.

   Research was also conducted at the Department of Indian Affairs and Northern Development on approximately 6,000 residential school files that are still held by the department. The Royal Commission secured access to this documentation only after protracted and difficult negotiations; these were eventually successful, but they seriously delayed completion of the project. Only one member of the research team was allowed to review the material and then only after signing an agreement setting out a detailed research protocol and obtaining an 'enhanced reliability' security clearance.

   Information that fell, in the department's determination, within the bounds of solicitor/client privilege or confidences of the Queen's Privy Council for Canada within the last 20 years was not made available. All other files, including those carrying access restrictions ('Confidential' or 'Protected', for example) were to be made available. Most critically, access to the departmental collection was granted under the provisions of the *Privacy Act*, which stipulates that no disclosure of personal

information, in the meaning of the act, can be made in a form that could reasonably be expected to identify the individual to whom it relates. The foregoing text and footnotes and these notes were written to comply with that stipulation.

The following abbreviations are used in the notes:

INAC - files (stored at the headquarters of the Department of Indian Affairs and Northern Development in Hull, Quebec) that come under the Privacy Act restrictions
NAC - National Archives of Canada
MG - Manuscript Group
RG - Record Group
RG10 - Indian Affairs records (held by the National Archives)
RG85 - Northern Affairs records (held by the National Archives)
MR - Microfilm Reel

2. For a review of Canadian policy, see John L. Tobias, "Protection, Civilization, Assimilation: An Outline History of Canada's Indian Policy", in *As Long as the Sun Shines and Water Flows*, ed. Ian A.L. Getty and Antoine S. Lussier (Vancouver: University of British Columbia Press, 1983); J.R. Miller, *Skyscrapers Hide the Heavens: A History of Indian-White Relations in Canada*, revised edition (Toronto: University of Toronto Press, 1989); and Olive P. Dickason, *Canada's First Nations: A History of Founding Peoples* (Toronto: McClelland & Stewart Inc., 1992).

3. Annual Report of the Department of Indian Affairs for the Year Ended 31 March 1911 [cited hereafter as Annual Report], p. 273. For details of Scott's career, see E. Brian Titley, *A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada* (Vancouver: University of British Columbia Press, 1986).

4. National Archives of Canada (NAC), Record Group 10 (RG10), volume 6039, file 160-1, MR C 8152, F. Oliver to Joint Church Delegation, 21 March 1908.

5. NAC RG10, volume 3674, file 11422, MR C 10118, To Sir John A. Macdonald from the Archbishop of Quebec, February 1883, and volume 3647, file 8128, MR C 10113, To the Superintendent General of Indian Affairs from A. Sutherland, 30 July 1883.

6. NAC MG 26A, Sir John A. Macdonald Papers, volume 91, "Report on Industrial Schools for Indians and Half-Breeds" [The Davin Report], 14 March 1879, pp. 35428-45. See C.B. Koester, *Mr. Davin, M.P., A Biography of Nicholas Flood Davin* (Saskatoon: Western Producer Prairie Books, 1980) for biographical information.

7. Annual Report 1890, p. xii.

8. NAC RG10, volume 6040, file 160-2, part 4, MR C 8153, T. Ferrier, *Report of the Alberta Indian Commission of the Methodist Church* (1911).

9. INAC file 1/25-1, volume 15, To Sir John A. Macdonald from L. Vankoughnet, 26 August 1887.

10. N. Sheehan, "Education, Society and the Curriculum in Alberta 1905-1980: An Overview", and E. Brian Titley, "Indian Industrial Schools in Western Canada",

in *Essays in Canadian Educational History*, ed. N. Sheehan, J.D. Wilson and D.C. Jones (Calgary: Detselig, 1986). Also R.M. Connelly, "Missionaries and Indian Education", in *The Education of Indian Children in Canada*, ed. L.G.P. Waller (Toronto: The Ryerson Press, 1965); and David A. Nock, "The Social Effects of Missionary Education: A Victorian Case Study", in *Reading, Writing and Riches: Education and the Socio-economic Order in North America*, ed. Randle W. Nelson and David A. Nock (Kitchener: Between the Lines, 1978).

11. Annual Report 1911, p. 273.

12. NAC RG10, volume 3947, file 123764, MR C 10166, To the Superintendent General of Indian Affairs from Inspector J.A. Macrae, 7 December 1900.

13. George Manuel and Michael Posluns, *The Fourth World* (Don Mills: Collier-Macmillan Canada Ltd., 1974), p. 63.

14. Relatively few schools were established in Quebec, however, for reasons that are not entirely clear. It may have been because the major portion of the Aboriginal population that concerned the Catholic church was served by a day school system that had emerged in the southern part of the province before Confederation. Or it could have been because the Catholic church's missionary focus and energy were concentrated, in the nineteenth and early twentieth centuries, on the Canadian west and north-west, very much in competition with a similar advance of the Protestant churches into those regions. In those regions and in British Columbia, Catholic residential schools dominated.

15. From the outset the position taken on the education of Métis children in residential schools was rather ambiguous. The deputy superintendent general, J. Smart, noted in October 1899 (see NAC RG10, volume 3931, file 117377, MR C 10163, To the Secretary from D. Laird, 27 August 1900) that although he did not consider it appropriate "that the children of the Half-Breeds proper, of Manitoba and the Territories, should be admitted into Indian schools and be paid for by the Department...all children, even those of mixed blood, whether legitimate or not, who live upon an Indian Reserve and whose parents on either side live as Indians upon a Reserve, even if they are not annuitants, should be eligible for admission to the schools." There was, however, no hard and fast policy until the 1911 contract, clause 4(b) of which stated, "No Half-breed child shall be admitted to the said schools unless Indian children cannot be obtained to complete the number authorized [for any particular school]...in which event the Superintendent General may in his discretion permit the admission of any Half-breed child; but the Superintendent General will not pay any grant for any such Half-breed pupil...nor any part of the cost of its maintenance or education whatever." (Correspondence and Agreement relating to the Maintenance and Management of Indian Boarding Schools [Ottawa: Government Printing Bureau, 1911].) This policy was maintained throughout the rest of the history of the system.

    It is impossible to determine the number of Aboriginal children who attended the schools over the life of the system. Estimates have been given. In T. Lascelles, OMI, "Indian Residential Schools", *The Canadian Catholic Review* 10/5 (May

1992), it is suggested that fewer than one in six attended. In his study, "Attendance at Indian Residential Schools in British Columbia, 1890-1920", *B.C. Studies* 44 (Winter 1979-80), James Redford concluded that only 17.6 per cent of children aged 6 to 15 attended residential schools in British Columbia in 1901 and that the proportion rose to 22.3 per cent in 1920. In "Owen Glendower, Hotspur, and Canadian Indian Policy", *Ethnohistory* 37/4 (Fall 1990), J.R. Miller concluded that "the system never reached more than a minority of young Indians and Inuit." In fact, the extant school records for the system as a whole are not complete enough to allow useful calculations to be made. Given that fact, this text relies on annual enrolment lists found in NAC RG10 files, INAC files and the tabular statements in annual reports. These give only total enrolments per year, however, and cannot be used to determine the number of children who had a residential school experience. Any figures, including the minorities mentioned by Lascelles, Redford and Miller, are dangerously misleading unless they are fully contextualized. The impact of the system was felt not only by the children who attended schools but by the families and communities that were deprived of their children and had to deal subsequently with children who returned damaged from the schools. In that sense, communities, parents and, indeed, children later born to former students of the residential schools were all 'enroled'.

16. NAC RG10, volume 3818, file 57799, MR C 10143, Reed Report (1889).
17. NAC RG10, volume 6462, file 888-1 (2-3, 6), MR C 8781, C. Hives to R.A. Hoey, 21 June 1942, and R.A. Hoey to C. Hives, 29 June 1942.
18. NAC RG10, volume 3647, file 8128, MR C 10113, To Indian Commissioner, Regina, from J.A. Macrae, 18 December 1886.
19. Macrae to Indian Commissioner (cited in note 18).
20. Annual Report 1897, p. xxvi.
21. Annual Report 1888, pp. ix-x.
22. Macrae to Indian Commissioner (cited in note 18).
23. Davin Report (cited in note 6).
24. David A. Nock, *A Victorian Missionary and Canadian Indian Policy: Cultural Synthesis versus Cultural Replacement* (Waterloo, Ontario: Wilfrid Laurier University Press, 1988), p. 73. The school was at Sault Ste. Marie.
25. Annual Report 1889, p. xi.
26. NAC RG10, volume 6039, file 160-1, MR C 8152, To the Minister from the Archbishop of St. Boniface, 30 November 1912.
27. General Synod Archives, GS 75-103, Series 1-14, Box 15, MSCC Blake Correspondence, To S.H. Blake from F. Oliver, 28 January 1908.
28. Annual Report 1889, p. xi.
29. Annual Report 1890, p. xii.

30. Annual Report 1911, p. 273.
31. Davin Report (cited in note 6).
32. L. Vankoughnet to Sir John A. MacDonald (cited in note 9).
33. Annual Report 1895, p. xxii.
34. Annual Report 1891.
35. Annual Report 1896, pp. 398-399.
36. NAC RG10, volume 6040, file 160-3A, MR C 8153, Memorandum of the Convention of the Catholic Principals of Residential Schools held at Lebrett, Saskatchewan, 28 and 29 August 1924.
37. Annual Report 1891, p. xiii.
38. NAC RG10, volume 6040, file 160-7, part 1, MR C 8153, Report of the Following Institutions Under the Management of the Home Board of Missions for the United Church of Canada, 31 March 1927.
39. Manuel and Posluns, *The Fourth World* (cited in note 13), p. 67.
40. Nock, *A Victorian Missionary* (cited in note 24), p. 78 [emphasis in original].
41. Annual Report 1899, p. xxxi.
42. Annual Report 1895, pp. xxii-xxiii.
43. NAC RG10, volume 3674, file 11422-5, MR C 10118, To H. Reed from the Deputy Superintendent General, 24 August 1890.
44. Nock, *A Victorian Missionary* (cited in note 24), p. 78; and NAC RG10, volume 6443, file 881 (1-3), MR C 8767, To H. McGill from D. MacKay, 25 March 1937.
45. Macrae to Indian Commissioner (cited in note 18).
46. Annual Report 1887, p. lxxx.
47. NAC RG10, volume 4037, file 317021, MR C 10177, To the Secretary from Agent [unsigned], Birtle, Manitoba, 20 December 1907.
48. Annual Report 1896, p. xxxviii.
49. NAC RG10, volume 3927, file 116836-1A, MR C 10162, To the Superintendent General of Indian Affairs from R. MacKay and J. Menzies, 11 March 1904.
50. NAC RG10, volume 3920, file 116751-1A, MR C 10161, To the Deputy Superintendent General from H. Reed, 12 July 1889.
51. Annual Report 1902, p. 189.
52. NAC RG10, volume 6039, file 160-1, MR C 8152, To the Secretary from Principal Heron, 14 April 1909.
53. NAC RG10, volume 4072, file 431636, MR C 10183, To the Assistant Deputy and Secretary from Reverend W. McWhinney, 26 February 1913.

54. See, for example, H. Reed to the Deputy Superintendent General (cited in note 50).
55. Annual Report 1898, p. xxvii.
56. NAC RG10, volume 6039, file 160-1, MR C 8152, Principal Heron to the Secretary.
57. Annual Report 1903, p. 89.
58. See, for example, Annual Report 1906.
59. Annual Report 1911, p. 296.
60. Olive P. Dickason, *Canada's First Nations: A History of Founding Peoples* (Toronto: McClelland & Stewart Inc., 1992) p. 320.
61. Annual Report 1911, p. 275; 1912, p. 302.
62. Annual Report 1914, p. 115.
63. NAC RG10, volume 6041, file 160-7, part 1, MR C 8153, Resolution passed by the Association of Indian Workers in Saskatchewan at their meeting held in May 1930.
64. Annual Report 1910, p. 275.
65. Principal Heron to the Secretary (cited in note 52).
66. Annual Report 1903, p. 89.
67. INAC file 501/25-1-019, volume 1, To A.B. Weselak, MP, from H.M. Jones, Director, 4 June 1954.
68. INAC file 601/25-2, volume 2, R.F. Davey, Residential Schools Past and Future, 8 March 1968. For further information on the failure of the system to reach educational standards comparable to those of non-Aboriginal schools, see J. Barman, Y. Hébert and D. McCaskill, "The Legacy of the Past: An Overview", in *Indian Education in Canada*, ed. J. Barman, Y. Hébert and D. McCaskill, Volume 1: The Legacy (Vancouver: University of British Columbia Press, 1986).
69. INAC file 6-37-1, volume 2, Notes on Highlights of Indian Affairs Operations 1957 to Date, Memorandum for the Director, Education Division, 1952-1957.
70. Residential Schools Past and Future (cited in note 68).
71. INAC file 6-37-1, volume 2, Notes on Highlights of Indian Affairs Operations 1957 To Date.
72. INAC file D4700-1, volume 2, Economic and Social Development – Indian Education, Discussion Paper, 22 July 1981.
73. INAC file 1/25-1, volume 22, Memorandum on Education, R.F. Davey, 15 September 1969.
74. NAC RG10, volume 8448, file 06/23-5-019, MR C 13800, Fort Alexander Inspection Report, B. Warkentin, 1951.
75. NAC RG10, volume 8449, file 511/23-5-017, MR C 13800, Portage La Prairie Inspection Report, Eldon Simms, 9 November 1944.

76. INAC file 4745-1, volume 1, Indian Education Program, 1972.

77. INAC file 1/25-1, volume 22, Memorandum on Education, R.F. Davey, 15 September 1969.

78. NAC RG10, volume 8448, file 506/23-5-019, MR C 13800, Fort Alexander Inspection Report, B. Warkentin, 15 June 1942.

79. INAC file E4974-1, volume 3, Historical Trends in Indian Education, 1982.

80. INAC file 1/25-1, volume 35, Educational Services for Indians, 24 March 1969.

81. House of Commons, Special Committee on Reconstruction and Re-Establishment, *Minutes of Proceedings and Evidence*, No. 9, 24 May 1944, p. 306.

82. NAC RG10, volume 6205, file 468-1, MR C 7937, To Dr. Dorey from R.A. Hoey, 29 May 1944; To the Deputy Minister from R.A. Hoey, 7 June 1944.

83. INAC file 6-21-1, volume 3, Statement Presented by Mr. R.F. Davey on Behalf of Indian Affairs Branch to the Standing Committee of Ministers of Education, 25 September 1963.

84. NAC RG10, volume 6205, file 468-1, MR C 7937, To the Deputy Minister from R. A. Hoey, 7 June 1944.

85. INAC file 601/25-1, volume 6, To Chief D. Ahenakew from J. G. McGilp, 24 February 1970.

86. INAC file 501/25-1-019, volume 1, To A.B. Weselak, MP, from H.M. Jones, 4 June 1954.

87. INAC file 4745-1, volume 1, Indian Education Program, 1972.

88. INAC file 6-21-1, volume 2, To D. Watters, Treasury Board, from L. Fortier, 22 July 1958.

89. INAC file 1/25-1, volume 22, Memorandum on Education, R.F. Davey, 15 September 1969.

90. INAC file 4745-1, volume 1, Indian Education Program, 1972.

91. INAC file 1/25-1, volume 22, Memorandum on Education, R.F. Davey, 15 September 1969.

92. INAC file 601/25-2, volume 2, Admissions Policy for Indian Student Residences, Preface, June 1969.

93. INAC file 301/25-13, volume 4, To R.L. Boulanger from D. Kogawa, 25 January 1973.

94. INAC file 601/25-2, volume 2, R.F. Davey, Residential Schools Past and Future, 8 March 1968.

95. INAC file 1/25-1, volume 22, Memorandum on Education, R.F. Davey, 15 September 1969.

96. INAC file 601/25-2, volume 2, R.F. Davey, Residential Schools Past and Future, 8 March 1968.

97. INAC file 1/25-1, volume 35, Educational Services for Indians, 24 March 1969.

98. House of Commons, Special Committee on Reconstruction and Re-Establishment, *Minutes of Proceedings and Evidence*, No. 9, 24 May 1944 p. 306.

99. INAC file 601/25-1, volume 6, To Chief D. Ahenakew from J.D. McGilp, 24 February 1970.

100. INAC file 501/25-1-019, volume 1, To A.B. Weselak, MP, from H.M. Jones, 4 June 1954.

101. INAC file 601/25-2, volume 2, R.F. Davey, Residential Schools Past and Future, 8 March 1968.

102. INAC file 601/25-1, volume 6, To Chief D. Ahenakew from J.D. McGilp, 24 February 1970.

103. INAC file 671/25-2, volume 3, Reasons for Admission – Category 3 Student Residences, J. B. Freeman, 7 May 1974.

104. INAC file 40-2-185, volume 1, Relationships Between Church and State in Indian Education, 26 September 1966. See also file 671/25-2, volume 3, To W. Grant from F. Misiurski, 24 January 1974; and file 675/25-13, volume 2, To E.L. Davies from R. Martin, 16 June 1975, and to E.L. Davies from R. Martin 24 March 1975.

105. INAC file 671/25-2, volume 3, To W. Grant from F. Misiurski, 24 January 1974.

106. INAC file 601/25-1, volume 6, To Chief D. Ahenakew from J.G. McGilp, 24 February 1970.

107. INAC file 40-2-185, volume 1, Relationships Between Church and State in Indian Education, 26 September 1966.

108. INAC file 1/25-1 volume 35, Educational Services for Indians, 24 March 1969.

109. INAC file 40-2-185 volume 1, Relationships Between Church and State in Indian Education, 26 September 1966.

110. INAC file 1/25-1 volume 35, Educational Services For Indians, 24 March 1969.

111. Indian and Eskimo Welfare Commission, "Residential Education for Indian Acculturation" (Ottawa: Oblate Fathers in Canada, 1958), p. 15.

112. INAC file 6-21-7, volume 1, To Mrs. L. Potts from L. Fortier, 22 December 1959.

113. INAC file 40-2-185, volume 1, Relationships Between Church and State in Indian Education, 26 September 1966.

114. INAC file 501/1, volume 2, To Assistant Deputy Minister from R.F. Davey, 18 August 1969.

115. See Norman Andrew Gull, "The 'Indian Policy' of the Anglican Church of Canada from 1945 to the 1970s", M.A. thesis, Trent University (1992), for a discussion of this event.

116. INAC file 853/25-13, volume 3, To Reverend J. P. Mulvihill from J. Chrétien, 8 January 1971.

117. INAC file 601/25-13, volume 3, A Proposal to Transfer the Control and Management of Student Residences to Indian People, January 1971.

118. INAC file 779/25-1-009, volume 1. This file contains a number of documents related to the dispute over the school and the final resolution. Blue Quills was located on the Blue Quills reserve, west of Saddle Lake, Alberta.

119. INAC file 853/25-13, volume 3, To Reverend J.P. Mulvihill from J. Chrétien, 8 January 1971.

120. INAC file 12-04-93, To P. Isaac from P. Bisson, 24 August 1984.

121. See INAC file 40-2-185, volume 1, To E.A. Côté, Deputy Minister, Department of Northern Affairs and National Resources, from G.R. Cameron, 26 May 1966; INAC file 600-1, volume 2, Education in Canada's Northland, 12 December 1954; and Kenneth Coates, "'Betwixt and Between': The Anglican Church and the Children of the Carcross (Chooulta) Residential School, 1911-1954", *B.C. Studies* 64 (Winter 1984-85).

122. See INAC file 600-1, volume 2, Education of Eskimos (1949-1957); and file 603-2, volume 1, Education of Eskimos, 5 March 1957.

123. INAC file 600-1, volume 2, Education in Canada's Northland. Shelagh D. Grant, *Sovereignty or Security? Government Policy in the Canadian North, 1936-1950* (Vancouver: University of British Columbia Press, 1988); Richard Finnie, *Canada Moves North* (New York: The Macmillan Company, 1943); Morris Zaslow, *The Northward Expansion of Canada 1914-1967* (Toronto: McClelland and Stewart, 1988); and Norman J. Macpherson, *Dreams and Visions, Education in the Northwest Territories from Early Days to 1984* (Yellowknife: Department of Education, Government of the Northwest Territories, 1991).

124. INAC file 630-101-1, volume 4, Memorandum for the Minister, R.G. Robertson, Deputy Minister, 12 August 1957.

125. INAC file 40-2-185, volume 1, Memorandum For Cabinet – Education in the Northwest Territories, Jean Lesage, 4 March 1955.

126. INAC file 600-1, volume 2, Education in Canada's Northland, 12 December 1954.

127. INAC file 600-1, volume 2, "New Education Programme in the Northwest Territories", press release, 20 March 1955.

128. INAC file 1/25-13-2, volume 1, To R.F. Davey from F.A.G. Carter, 24 April 1968; file 250-9-20, volume 1, To J.A. Macdonald, Deputy Minister, from S. Hodgson, Commissioner of the N.W.T., 13 February 1969, and To S. Hodgson from J.A. Macdonald, 18 December 1968; and Norman J. Macpherson, *Dreams and Visions,*

Education in the Northwest Territories from Early Days to 1984 (Yellowknife: Department of Education, Government of the Northwest Territories, 1991), p. 20.

129. INAC file 600-1-6, volume 5, Memorandum for the Deputy Minister, 11 October 1963. Large Hostels: Fleming Hall (at Fort Macpherson), Bompas Hall (Fort Simpson), Lapointe Hall (Fort Simpson), Breynat Hall (Fort Smith), Grollier Hall (Inuvik), Stringer Hall (Inuvik), Akaitcho Hall (Yellowknife), Turquetil Hall (Chesterfield Inlet). Small Hostels: Cambridge Bay, Baker Lake, Belcher Islands, Broughton Island, Cape Dorset, Eskimo Point, Great Whale River, Igloolik, Pangnirtung, Payne Bay, Pond Inlet and Port Harrison (Inukjuak).

130. INAC file 600-1, volume 2, Education in Canada's Northland, 12 December 1954.

131. INAC file 603-2, volume 1, Education of Eskimos, 5 March 1957.

132. Right from the outset churches lobbied for funds. See, for example, NAC RG10, volume 3674, file 11422, MR C 10118, To Sir John A. Macdonald from the Archbishop of Quebec, February 1883, and To Superintendent General of Indian Affairs from J. McDougall, 28 October 1883.

133. NAC RG10, volume 7185, file 1/25-1-7-1, MR C 9696, Memorandum to the Honourable Charles Stewart, 31 October 1927.

134. NAC RG10, volume 6436, file 878-1 (1-3), MR C 8762, To the Deputy Superintendent General from M. Benson, 23 October 1907.

135. INAC file 600-1, volume 2, Report of the Committee of the Privy Council, approved by His Excellency the Governor General in Council on 22nd October 1892.

136. To E. Dewdney from L. Vankoughnet, NAC RG10, volume 3927, file 116836-1A, MR C 10162, 2 June 1890; and volume 3926, file 116836-1, MR C 10162, 10 June 1890.

137. NAC RG10, volume 6039, file 160-1, MR C 8152, To the Deputy Superintendent General from the Auditor General, 7 December 1904. For a discussion of funding and management difficulties, see E. Brian Titley, *Narrow Vision, Duncan Campbell Scott and the Administration of Indian Affairs in Canada* (Vancouver: University of British Columbia Press, 1986), pp. 80-82; and NAC RG10, volume 3927, file 116836-1A, MR C 10162, To the Deputy Superintendent General from M. Benson, 19 March 1904, and To Deputy Superintendent General from M. Benson, 25 April 1905.

138. NAC RG10, volume 6039, file 160-1, MR C 8152, To F. Pedley from Reverend A.E. Armstrong, 1 February 1907.

139. NAC RG10, volume 6730, file 160-2 (1-3), MR C 8092, To Dr. Roche from D.C. Scott, 27 June 1917.

140. NAC RG10, volume 6039, file 160-1, MR C 8152, Memorandum on Conference in F. Oliver's Office, 8 November 1910. For a discussion of the details of the

contracts, see file 160-1, To the Superintendent General from F. Pedley, 17 November 1910.

141. NAC RG10, volume 6039, file 160-1, MR C 8152, Memorandum on Conference in F. Oliver's Office, 8 November 1910; School Classification and Per Capita Rates – 1910.

142. NAC RG10, volume 6039, file 160-1, MR C 8152, Memorandum on Conference in F. Oliver's Office, 8 November 1910, To the Superintendent General from F. Pedley, 17 November 1910.

143. NAC RG10, volume 6039, file 160-1, MR C 8152, Memorandum on Conference in F. Oliver's Office, 8 November 1910.

144. Correspondence and Agreement Relating to the Maintenance and Management of Indian Boarding Schools (Ottawa: Government Printing Bureau, 1911), p. 4.

145. NAC RG10, volume 7185, file 1/25-1-7-1, Memorandum, F.T. Ferrier, 5 April 1932; Circular from Deputy Superintendent General, 22 February 1933; Circular, 15 April 1935; Circular, 13 July 1935; Circular, 26 March 1936; Circular, 25 June 1936; and volume 6041, file 160-5, MR C 8153, To Reverend J. Scannell from H. McGill, 17 February 1936.

146. NAC RG10, volume 6041, file 160-5, MR C 8153, To J. Plourde from R.A. Hoey, 15 October 1940.

147. NAC RG10, volume 6730, file 160-2 (1-3), MR C 8092, To Reverend Dr. T. Westgate from R.A. Hoey, 11 January 1941.

148. NAC RG10, volume 6730, file 160-2 (1-3), MR C 8092, To D.C. Scott from Canon S. Gould, 23 September 1924. See also volume 6040, file 160-3A, MR C 8153, To the Minister from Canon S. Gould, 7 January 1921; and volume 6039, file 160-1, MR C 8152, Memo for File, R.T. Ferrier, 8 February 1926.

149. NAC RG10, volume 7185, file 1/25-1-7-1, Memorandum for H. McGill from R.A. Hoey, 4 November 1938.

150. NAC RG10, volume 6001, file 1-1-1(1), MR C 8134, Memorandum for A. Meighen from D.C. Scott, January 1918.

151. NAC RG10, volume 7185, file 1/25-1-7-1, To Honourable Charles Stewart from D.C. Scott, 31 October 1927.

152. NAC RG10, volume 6039, file 160-1, MR C 8152, To J. McLean from M. Benson, 15 July 1897.

153. NAC RG10, volume 3674, file 11422, MR C 10118, To Reverend A. Lacombe from E. Dewdney, 23 July 1883.

154. NAC RG10, volume 4041, file 334503, MR C 10178, Paget Report, 25 November 1908.

155. NAC RG10, volume 3917, file 116575-5, MR C 10161, To the Indian Commissioner from M.M. Seymour, MD, 17 September 1895. See also volume 3674, file 11422 5,

MR C 110118, To the Deputy Superintendent General from H. Reed, 13 May 1891; volume 3922, file 116820-1A, MR C 10162, To the Deputy Superintendent General from J. Day, n.d.; volume 6027, file 117-1-1, MR C 8147, To the Assistant Commissioner, Regina, from A. Baird, 24 December 1894; volume 6039, file 160-1, MR C 8152, To J. McLean from M. Benson, 15 July 1897; and volume 6305, file 652-1, MR C 8682, To J. McLean from A. MacArthur, 27 December 1910.

156. NAC RG10, volume 6039, file 160-1, To J. McLean from M. Benson, 15 July 1897.

157. The department did attempt to force parents to send their children by threatening to cancel rations and other "privileges" and, in both the Indian affairs and northern affairs systems, by the suspension of family allowance payments. See, for example, NAC RG85, volume 1507, file 600-3, To R.A. Gibson from F. Fraser, 16 December 1948; INAC file 501/25-1, volume 1, Circular No. 42, School Attendance, R.D. Ragan, 6 October 1958; To R.D. Ragan from R.F. Davey, 24 July 1958; and file 773/25-2-004, Family Allowances, Unsatisfactory School Report, 1 March 1967.

158. NAC RG10, volume 6348, file 752-1, MR C 8705, To the Deputy Superintendent General from D.C. Scott, 23 April 1909.

159. NAC RG10, volume 4041, file 334503, MR C 10178, Paget Report. See also volume 3927, file 116836-1A, MR C 10162, To the Superintendent General from R. MacKay and J. Menzies, 11 March 1904.

160. NAC RG10, volume 3937, file 120048-1, MR C 10164, To A. Vowell from the Bishop of Caledonia, 11 November 1907.

161. NAC RG10, volume 4037, file 317021, MR C 10177, *Montreal Star*, 15 November 1907, and *Saturday Night*, 23 November 1907.

162. NAC RG10, volume 4037, file 317021, MR C 10177, *Montreal Star*, 15 November 1907, and *Saturday Night*, 23 November 1907; Report on the Indians of Manitoba and the Northwest Territories [Bryce report] (Ottawa: Government Printing Bureau, 1907).

163. NAC RG10, volume 1346-7, no file no., MR C 13916, To W. Robertson from Principal W. Lemmens, 31 March 1915.

164. NAC RG10, volume 1346-7, no file no., MR C 13916, To the Secretary from S. Swinford, 4 December 1907.

165. NAC RG10, volume 1346-7, no file no., MR C 13916. The Secretary of the Department solicited reactions to the Bryce report from local agents. They were generally in agreement with Bryce. See, for example, To the Secretary from D. Mann, 22 November 1907 and To the Secretary from T. Eastwood, 15 December 1907.

166. Duncan C. Scott, "Indian Affairs, 1867-1912", in *Canada and its Provinces: A History of the Canadian People and their Institutions by One Hundred Associates*, ed. Adam Shortt and Arthur G. Doughty (Toronto: Glasgow, Brook & Company, 1914), volume 7, p. 615.

167. NAC RG10, volume 4037, file 317021, MR C 10177, *Saturday Night*, 23 November 1907.

168. Anglican Church of Canada, General Synod Archives, S.H. Blake File, G.S. 75-103, "To the Honourable Frank Oliver, Minister of the Interior, 27 January 1907", quoted in To the Members of the Board of Management of the Missionary Society of the Church of England, 19 February 1907.

169. P.H. Bryce, *The Story of a National Crime, being an Appeal for Justice to the Indians of Canada* (Ottawa: James Hope & Sons, Limited, 1922).

170. NAC RG10, volume 6015, file 1-1-13, MR C 8141, To W. Graham from D.C. Scott, 16 February 1925. See also To D.C. Scott from W. Graham, 10 February 1925.

171. Bryce, *A National Crime* (cited in note 169), p. 14.

172. See NAC RG10, volume 6001, file 1-1-1 (1), MR C 8134, Memorandum for Arthur Meighen from D.C. Scott, January 1918; volume 6015, file 1-1-13, MR C 8141, To Dr. H. McGill from E.L. Stone, MD, 27 November 1903; and George J. Wherrett, *The Miracle of Empty Beds: A History of Tuberculosis in Canada* (Toronto: University of Toronto Press, 1977), p. 107.

173. NAC RG10, volume 4092, file 546898, MR C 10187, To W. Graham from Dr. F.A. Corbett, 1922; and volume 3918, file 116659-1, MR C 10161, To J. Smith from the Assistant Deputy and Secretary, 29 March 1918.

174. NAC RG10, volume 6482, file 941-2, MR C 8796, To J. Plourde from H. McGill, 10 February 1940.

175. See, for example, NAC RG10, volume 4092, file 546898, MR C 10187, To D.C. Scott from W. Graham, 7 December 1920 and To W. Graham from H.N. Kennedy, MD, 7 January 1922; volume 8451, file 655/23-5, MR C 13801, To H. McGill from M. Christianson 25 January 1935; volume 6446, file 881-23, MR C 8770, To R.H. Moore from C. Pitts, MD, 22 October 1935; and Wherrett, *The Miracle of Empty Beds* (cited in note 172), p. 109.

176. Bryce, *A National Crime* (cited in note 169), p. 14.

177. NAC RG10, volume 6462, file 888-1, MR C 8781, To D.C Scott from Reverend A. Lett, 6 March 1922.

178. NAC RG10, volume 8448, file 506/23-5-014, MR C 13800, Inspection Report on Birtle School, A. Hamilton, 4 December 1936.

179. NAC RG10, volume 6332, file 661-1 (1-2) MR C 9809, To W. Graham from L. Affleck, 15 November 1929.

180. NAC RG10, volume 3933, file 117657-1, MR C 10164, To D.C. Scott from W. Graham, 10 October 1914.

181. NAC RG10, volume 3918, file 116659-1, MR C 10161, To the Assistant Deputy and Secretary from J. Smith, 8 February 1918; and volume 6479, file 940-1 (1-2), MR C 8794, To the Deputy Superintendent General from E. Stockton, 29 November 1912.

182. NAC RG10, volume 6426, file 875-1-2-3-5, MR C 8754, Inspection Report, Alert Bay Boys School, British Columbia, R.H Cairns, 27 April 1926.

183. NAC RG10, volume 6451, file 883-1 (1-2), MR C 8773, Inspection Report, Kitamaat School, Kitamaat, British Columbia, R.H. Cairns, 19 April 1926.

184. NAC RG10, volume 6309, file 654-1, MR C 8685, To W. Graham from J. Waddy, 15 October 1930.

185. NAC RG10, volume 3918, file 116659-1, MR C 10161, To the Assistant Deputy and Secretary from J. Smith, 29 March 1918; and To the Assistant Deputy and Secretary from F.V. Agnew, MD, 18 June 1918.

186. NAC RG10, volume 6332, file 661-1 (1-2), MR C 9809, To W. Graham from R. Murison, 29 June 1929.

187. NAC RG10, volume 3918, file 116659-1, MR C 10161, To D.C. Scott from J. Salles, 2 April 1917.

188. NAC RG10, volume 3933, file 117657-1, MR C 10164, To W. Graham from C. Stockdale, July 1914.

189. NAC RG10, volume 6262, file 578-1 (4-5), MR C 8653, Report of Dr. A.B. Simes on Elkhorn School, 19 October 1944.

190. NAC RG10, volume 6332, file 661-1 (1-2), MR C 9809, To W. Graham from L. Affleck, 15 November 1929.

191. NAC RG10, volume 6041, file 160-5, MR C 8153, To H. McGill from U. Langlois, 28 April 1928.

192. NAC RG10, volume 3918, file 116659-1, MR C 10161, To the Assistant Deputy and Secretary from J. Smith, 8 February 1918. For other examples, see volume 6039, file 160-1, MR C 8152, To Reverend C. Bouillet from J.T. Ross, 25 January 1919; file 160-2, part 4, To B. Neary from Canon Cook, 5 July 1950; and volume 6040, file 160-3A, MR C 8153, To D.C. Scott from T. Ferrier, 2 July 1917.

193. INAC file 951/23-5, volume 1, To the Secretary from a Principal, 15 April 1934.

194. INAC file 6-37-1, volume 1, Memorandum for Dr. H. McGill from R.A. Hoey, 13 February 1937.

195. NAC RG10, volume 6327, file 660-1 (1-3), MR C 9807, To Reverend C. Cahill from D.C. Scott, 1 March 1917. Qu'Appelle School was located outside Lebrett, Saskatchewan.

196. NAC RG10, volume 8448, file 506/23-5-019, MR C 13800, Inspection Report on Birtle School, A. Hamilton, 4 December 1936.

197. NAC RG10, volume 6327, file 660-1 (1-3), MR C 9807, To D.C. Scott from W. Graham, 18 October 1916.

198. INAC file 772/23-5-010, volume 1, Inspection Report, Morley School, located at the Morleyville Settlement on the Stony reserve, Saskatchewan, L.G.P. Waller, 31 October 1952.

199. NAC RG10, volume 6268, file 581-1 (1-2), MR C 8657, To D.C. Scott from J.R. Bunns, 24 September 1915; volume 6262, file 578-1 (4-5), MR C 8653, Report of Dr. A.B. Simes, Elkhorn School, 19 October 1944; volume 6426, file 875-1-2-3-5, MR C 8756, Inspection Report on Alert Bay Boys School, Inspector R.H. Cairns, 27 April 1926.

200. NAC RG10, volume 6452, file 884-1 (1-3), MR C 8773-8774, Memorandum, Assistant Commissioner Perry, 16 June 1930. See also volume 6479, file 940-1 (1-2), MR C 8794, To the Deputy Superintendent from E. Stockton, 29 November 1912.

201. NAC RG10, volume 6455, file 885-1 (1-2), MR C 8777, Inspection Report, Kuper Island School, R.H. Cairns, 9 November 1922.

202. NAC RG10, volume 6039, file 160-1, MR C 8152, To J. McLean from M. Benson, 15 July 1897.

203. See NAC RG10, volume 6268, file 581-1 (1-2), MR C 8657, To D.C. Scott from J.R. Bunns, 25 September 1915; volume 6309, file 654-1, MR C 8685, To W. Graham from J. Waddy, 15 October 1930; volume 6451, file 883-1 (1-2), MR C 8773, To the Secretary from I. Foughner, 15 June 1922; and volume 8754, file 651/25-1, MR C 9701, To the Director from R.S. Davis, 15 July 1942.

204. NAC RG10, file 150-44, MR C 8149, Health Aspects in Relation to Food Service, Indian Residential Schools, November 1946.

205. INAC file 601/25-2, volume 2, R.F. Davey, Residential Schools Past and Future, 8 March 1968.

206. INAC file 116/25-13, Operation of Government-Owned Residential Schools on a Controlled Cost Basis, April 1958.

207. INAC file 1/18, volume 1, To the Secretary, Treasury Board, from L. Fortier, 25 November 1958.

208. INAC file 601/25-2, volume 2, R.F. Davey, Residential Schools Past and Future, 8 March 1968.

209. INAC file 6-21-1, volume 4, The National Association of Principals and Administrators of Indian Residences, Brief Presented to the Department of Indian Affairs, 1968.

210. INAC file E4974-1, volume 1, The Canadian Welfare Council, "Indian Residential Schools – A research study of child care programs of nine residential schools in Saskatchewan", p. 91.

211. INAC file 6-21-1, volume 4, The National Association of Principals and Administrators of Indian Residences, Brief Presented to the Department of Indian Affairs, 1968.

212. INAC file 6-21-1, volume 4, Memorandum on the Brief – National Association of Principals, R.F. Davey, 11 January 1968.

213. INAC file 6-21-1, volume 4, Memorandum on the Brief – National Association of Principals, R.F. Davey, 11 January 1968.

214. INAC file 6-21-1, volume 4, To Reverend J. Levaque from J.A. Macdonald, 28 May 1968.

215. INAC file 6-21-1, volume 4, The National Association of Principals and Administrators of Indian Residences, Brief Presented to the Department of Indian Affairs, 1968.

216. NAC RG85, volume 1224, file 630/110-3 (6), To R.G Robertson from..., 19 November 1957. Correspondent not identified for reasons of confidentiality (see note 1).

217. NAC RG85, volume 1338, file 600-1-5, Report on Coppermine Tent Hostel, A Teacher, 1 August 1959.

218. INAC file 1/25-1, volume 22, To R.F. Davie [sic] from..., Consultant Psychologist, 10 April 1969.

219. INAC file 1/1-18, volume 1, To the Secretary, Treasury Board, from L. Fortier, 25 November 1958.

220. See, for example, INAC file 501/25-13-067 volume 3, Memorandum to File, Mr. Chapple, 11 May 1967; file 1/25-13, volume 12, To R.F. Davey from Canon T. Jones, 28 September 1966; and Treasury Board Submission, Food and Clothing Allowances, Indian Residential Schools, 25 July 1966; file 44/25-2, To Regional Supervisor North Bay from R.F. Hall, 10 July 1964; file 676/25-13-005, volume 2, Food Services Report, Beauval School, 20 September 1962.

221. INAC file 601/25-13, volume 2, To I. Robson from Reverend G. Gauthier, 17 November 1969.

222. For a similar situation, see INAC file 1/25-1-4-1, To J. Boys from R.F. Davey, 15 August 1969.

223. NAC RG10, volume 3922, file 116820-1A, MR C 10162, To Archdeacon J. Mackay from the Deputy Superintendent General, 1 March 1895.

224. See, for example, NAC RG10, volume 3674, file 11422-4, MR C 11422, To E. Dewdney from Reverend J. Hugonard, 5 May 1891; and file 16836, MR C 10162, To F. Pedley from J. McKenna, J. Menzies and R. MacKay, 11 March 1904.

225. See NAC RG10, volume 3920, file 116818, MR C 10161, To the Deputy Superintendent General from Martin Benson, 12 August 1903; and volume 3925, file 116823-1A, To the Deputy Superintendent General from M. Benson, 1 June 1903.

226. NAC RG10, volume 3927, file 16836-1A, MR C 10162, To the Deputy Superintendent General from M. Benson, 17 March 1904.

227. NAC RG10, volume 10411, Shannon Box 36, MR C 10068, Circular, R. Ferrier, 19 January 1922.

228. INAC file 1/25-1-4-1, volume 2, To H.M. Jones from L.B. Pett, MD, 7 January 1954.

229. INAC file 501/25-13-075, volume 2, To Reverend A. Masse from R.F. Davey, 6 November 1962.

230. INAC file 701/25-1-4-1, volume 1, To Reverend P. Hudon from R.F. Davey, 7 March 1966. For other examples, see file 779/25-13-012, volume 1, To Dr. P.E. Moore from H. Jones, 30 October 1961; file 772/25-1-002, volume 1, To N. Goater from R.F. Davey, 19 June 1961; file 775/25-1-006, volume 1, To Reverend G. Montmigny from P. Deziel, 13 July 1961.

231. NAC RG10, volume 7194, file 511/25-1-015, MR C 9700. The diet at Brandon school, which was condemned by nutritionists, was allowed to remain wholly inadequate for more than six years, from 1950 to 1957.

232. NAC RG10, volume 6264, file 578-1 (4-5), MR C 8653, To Indian Affairs Branch from A. Hamilton, 22 September 1944. Elkhorn School was erected just outside the town of Elkhorn, Manitoba.

233. NAC RG10, volume 6859, file 494/25-2-014, MR C 13727, To F. Foss from the Bishop of Keewatin, 31 October 1960.

234. Nock, *A Victorian Missionary* (cited in note 24), p. 5.

235. Davin Report (cited in note 6).

236. INAC file 501/29-4, volume 9, To Sir John A. Macdonald from L. Vankoughnet, 26 August 1887.

237. NAC RG10, volume 3647, file 8128, MR C 10113, To Indian Commissioner, Regina, from J.A. Macrae, 18 December 1886.

238. NAC RG10, volume 3674, file 11422-2, MR C 110118, To the Indian Commissioner from Reverend A. Lacombe, 2 June 1885. High River Industrial School, also called St. Joseph's, was located near Davisburg, Alberta.

239. NAC RG10, volume 3920, file 116818, MR C 10161, To the Indian Commissioner from C. Somerset, 1 November 1900. For an excellent description of school routine, see Jacqueline Gresko, "Creating Little Dominions Within the Dominion: Early Catholic Indian Schools in Saskatchewan and British Columbia", in *Indian Education in Canada*, ed. J. Barman, Y. Hébert and D. McCaskill (Vancouver: University of British Columbia Press, 1986), Volume 1: The Legacy, pp. 93-109.

240. NAC RG10, volume 6430, file 876-1, MR C 8759, Inspection Report on Alberni School, G. Barry, 25 April 1934.

241. NAC RG10, volume 6205, file 468-1, (1-3), MR C 7937, To A. Moore from A. McKenzie, 9 January 1934. Mount Elgin School was located at Muncey, Ontario.

242. NAC RG10, volume 3674, file 11422-4, MR C 110118, To E. Dewdney from Reverend E. Claude, 29 October 1887.

243. NAC RG10, volume 6452, file 888-1 (2-3, 6-7), MR C 8773-8774, To the Bishop of Westminster from L. Vankoughnet, 17 October 1889.

244. NAC RG10, volume 3920, file 116818, MR C 10161, To Assistant Commissioner from H. Reed, 28 June 1895.

245. NAC RG10, volume 3920, file 116818, MR C 10161, To Assistant Commissioner from H. Reed, 28 June 1895.

246. See, for example, NAC RG10, volume 6187, file 461-1 (1-2), MR C 7922, To J. Edmison from J. McLean, 4 August 1917; and volume 6251, file 575-1 (1,3), MR C 8645, To Reverend A. Grant from J. McLean, 12 December 1912.

247. NAC RG10, volume 3920, file 116818, MR C 10161, To the Indian Commissioner, Regina, from D. Clink, 4 June 1896. The school was near Red Deer, Alberta.

248. NAC RG10, volume 6268, file 581-1 (1-2), MR C 8657, To the Secretary from D. Laird, 11 September 1907. The school was located close to Norway House reserve on Little Playgreen Lake in Manitoba.

249. NAC RG10, volume 6268, file 581-1 (1-2), MR C 8657, To the Secretary from D. Laird, 11 September 1907.

250. NAC RG10, volume 6187, file 461-1 (1-2), MR C 7922, To J. Edmison from J. McLean, 4 August 1917.

251. See, for example, NAC RG10, volume 6309, file 654-1 (1), MR C 8685, To R. Hoey from G. Castledon, MP, 19 February 1941. In this case, which is a direct parallel to the one brought forward by Laird, the young boy, having run away, froze to death. Departmental files contain many other examples.

252. NAC RG10, volume 7194, file 511/25-1-015, MR C 9700, To P. Phelan from R.S. Davis, 25 October 1951.

253. NAC RG10, file 6436, file 878-1 (1-3), MR C 8762, To the Secretary from A. Vowell, plus attachments, 17 March 1902. For a history of this incident and others at Williams Lake, see Elizabeth Furniss, *Victims of Benevolence: Discipline and Death at the Williams Lake Residential School, 1891-1920* (Williams Lake: Cariboo Tribal Council, 1992). Williams Lake industrial school was at Williams Lake, and Lejac was on Fraser Lake, in the northern part of British Columbia.

254. NAC RG10, volume 6443, file 881-1 (1-3), MR C 8767, To H. McGill from D. MacKay, 25 March 1937.

255. NAC RG10, volume 6348, file 752-1, MR C 8705, To Reverend J. Rioui from D.C. Scott, 16 December 1901. The school was located south of Cluny, Alberta, on the Blackfoot reserve.

256. NAC RG10, volume 6348, file 752-1, MR C 8705, To Reverend J. Rioui from D.C. Scott, 16 December 1901.

257. NAC RG10, volume 6452, file 884-1 (1-3), MR C 8773-8774, To the Bishop of Westminster from L. Vankoughnet, 17 October 1889.

258. NAC RG10, volume 3920, file 116818, MR C 10161, To the Assistant Commissioner from H. Reed, 28 June 1895.

259. NAC RG10, volume 6268, file 581-1 (1-2) MR C 8657, To the Secretary from D. Laird, 11 September 1907.

260. See NAC RG10, volume 6462, file 888-1 (2-3, 6-7), MR C 8781, To R.A. Hoey from Reverend C. Hives, 21 June 1943; volume 6200, file 466-1 (1-5), MR C 7633, To Reverend H. Snell from H. Craig, 29 July 1937, and attached correspondence; volume 6187, file 461-1 (1-2), MR C 7922, To Reverend A. Grant from the Secretary, 11 April 1916; volume 6342, file 750-1, MR C 8699, To D.C. Scott from J. Pugh, 25 January 1928, and attached correspondence; volume 6309, file 654-1, MR C 8685, To the Secretary from T. Robertson, 10 November 1938, and attached correspondence; and volume 6479, file 940-1 (1-2), MR C 8794, To the Superintendent General from Reverend H. Grant, 5 February 1940.

261. NAC RG10, volume 6348, file 752-1, MR C 8705, To Reverend J. Rioui from D.C. Scott, 16 December 1901.

262. NAC RG10, volume 6027, file 117-1-1, MR C 8147, Report on Crowstand School, W. Graham, 4 July 1907, and attached correspondence; To Reverend A. Grant from D.C. Scott, 19 September 1914. Crowstand School was located on Côté's reserve near Kamsack, Saskatchewan.

263. NAC RG10, volume 6358, file 758 (1-2), MR C 8713, To D.C. Scott from W. Graham, 25 December 1919, and attached correspondence.

264. NAC RG10, volume 6267, file 580-1 (1-3), MR C 8656, To W. Graham from J. Waddy, 1 September 1924, and attached correspondence. The school was located just outside The Pas.

265. NAC RG10, volume 6267, file 580-1 (1-3), MR C 8656, To W. Graham from J. Waddy, 1 September 1924, and attached correspondence.

266. NAC RG10, volume 6267, file 580-1 (1-3), MR C 8656, To D.C. Scott from W. Graham, 30 November 1931.

267. NAC RG10, volume 6039, file 160-1, MR C 8152, To J. McLean from M. Benson, 15 July 1897.

268. NAC RG10, volume 3920, file 116818, MR C 10161, To the Deputy Superintendent General from M. Benson, 12 August 1903.

269. NAC RG10, volume 6436, file 878-1 (1-3), MR C 8762, To the Assistant Deputy and Secretary from A. Daunt, 16 August 1920.

270. NAC RG10, volume 6041, file 160-5, part 1, MR C 8153, To Reverend J. Guy, from D.C. Scott, 11 July 1926. The school was located in Shubenacadie, Nova Scotia.

271. NAC RG10, volume 6320, file 658-1, MR C 8692, To His Parents from Edward B., 14 December 1923. The school was located close to Lloydminster, Saskatchewan.

272. NAC RG10, volume 6320, file 658-1, MR C 9802, To F. Mears from D.C. Scott, 11 January 1924. See also, To the Secretary from L. Turner, 23 March 1921.

273. NAC RG10, volume 6455, file 885-1 (1-2), MR C 8777, To the Secretary from W. Ditchburn, 31 October 1912.

274. See, for example, NAC RG10, volume 6191, file 462-1, MR C 7926, To J. McLean from H. Jackson, 9 September 1921, and attached correspondence; volume 7190, file 493/25-1-001, MR C 9698, To Mrs. L. Pinsonnault from J. McLean, 11 July 1924, and attached correspondence; and volume 8799, file 487/25-13-015, MR C 9718, To the Head of the Secretariat from V.M. Gran, 9 August 1965.

275. INAC file 501/25-1-067, volume 1, memo from A. Hamilton, 1949. See also "Manual of Instructions for Use in Government-Owned and Operated Student Residences", 1 January 1962.

276. Several works have been published that are memoirs by former students or based on interviews with students. See, for example, Celia Haig-Brown, *Resistance and Renewal: Surviving the Indian Residential School* (Vancouver: Tillacum Library, 1988); Isabelle Knockwood with Gillian Thomas, *Out of the Depths, The Experiences of Mi'kmaq Children at the Indian Residential School at Shubenacadie, Nova Scotia* (Lockeport, Nova Scotia: Roseway Publishing, 1992); Basil H. Johnston, *Indian School Days* (Toronto: Key Porter Books Limited, 1988); G. Manuel and M. Posluns, *The Fourth World* (Don Mills: Collier-Macmillan Canada Ltd., 1974); Linda Jaine, ed., *Residential Schools: The Stolen Years* (Saskatoon: University [of Saskatchewan] Extension Press, 1993); Geoffrey York, *The Dispossessed: Life and Death in Native Canada* (Toronto: Lester & Orpen Dennys, 1989); Assembly of First Nations, *Breaking the Silence, An Interpretive Study of Residential School Impact and Healing as Illustrated by the Stories of First Nations Individuals* (Ottawa: First Nations Health Commission, 1994). See also the transcripts of the hearings of the Royal Commission on Aboriginal Peoples, which contain testimony from former students about their school experience and subsequent lives. (For information about transcripts, see *A Note About Sources* at the beginning of this volume.)

277. Mary Carpenter, "Recollections and Comments: No More Denials Please", *Inuktitut* 74 (1991), pp. 56-61.

278. INAC file 1/25-20-1, volume 1, To Miss...from L. Jampolsky, 16 February 1966, and attached correspondence. The student opinions were circulated at the conference in an unpublished pamphlet, "Indian Viewpoints Submitted for the Consideration of the Residential School Principals' Workshop, Elliot Lake, Ontario". Copies exist in church archives.

279. There were many incidents of runaway children being injured or killed accidentally. See, for example, INAC file 451/25-2-004, volume 2, To H.B. Rodine from a Principal, 9 September 1968 – a young boy struck by a train and killed; file 961/25-1, volume 1, Telegram to R.F. Davey from W. Arneil, 19 January 1959 – two girls drowned; file 601/25-13, volume 3, Circular, Saskatchewan Region, E. Korchinski, 16 March 1971, and attached correspondence – death of two young boys from exposure; and file 487/25-1-014, volume 1, To the Acting Minister from R.F. Battle, 26 January 1967, and attached correspondence – the death of a boy from exposure.

280. INAC file E4974-2018, volume 1, To G. Sinclair from H. Lammer, 22 June 1981. The school was on Muscowequan's reserve near Lestock, Saskatchewan.

281. INAC file 487/25-1, volume 1, Memorandum to the Deputy Minister, 1 November 1907 and attachment. The school was located in Kenora, Ontario.

282. INAC file 501/25-1-064, volume 1, To D. Neild from R.F. Davey, 19 November 1953, and attached correspondence.

283. NAC RG10, volume 3674, file 11422-2, MR C 110118, To the Indian Commissioner from Reverend A. Lacombe, 12 June 1885.

284. See, for example, NAC RG10, volume 7194, file 511/25-1-015, MR C 9700, Inspection Report on Brandon school, 1950, and attached correspondence; and INAC file 501/25-1-067, volume 1, To D.M. MacKay from R.S. Davis, 4 March 1949.

285. NAC RG10, volume 6859, file 494/25-2-014, MR C 13727, To F. Foss from the Bishop of Keewatin, 31 October 1960. The school was located near Sioux Lookout, Ontario.

286. NAC RG10, volume 6205, file 468-1 (1-3), MR C 7937, To A. Moore from A. Mackenzie, 9 January 1934.

287. INAC file 777/23-5-007, volume 1, memo from P. Phelan, 24 April 1945.

288. NAC RG10, volume 6027, file 117-1-1, MR C 8147, To the Secretary from R. Blewett, 21 May 1913.

289. NAC RG10, volume 3933, file 117657-1, MR C 10164, To the Assistant Deputy Superintendent General from the Agent, Blood Reserve, 18 July 1918.

290. INAC file 853/25-1, volume 2, To the Honourable J.W. Pickersgill from a Catholic Bishop, 12 November 1956.

291. INAC file 1/25-20-1, volume 1, To Miss...from L. Jampolsky, 16 February 1966, and attached correspondence.

292. INAC file E4974-1, volume 1, The Caldwell Report, p. 151.

293. INAC file E4974-1, volume 1, The Caldwell Report, p. 61.

294. INAC file 1/25-13-2, volume 1, memo from G. Caldwell, 18 July 1967.

295. INAC file 1/25-1, volume 22, To R.F. Davie [sic] from..., Consultant Psychologist, 10 April 1969. See attached Report on Psychological Consultation Trip to the Keewatin Area, January 8-22, 1969.

296. INAC file 81/25-1, volume 1, To T.A. Turner from G.S. Lapp, 28 August 1964. See also file 1/25-1 volume 35, Memo on Education for J.B. Bergevin, 15 September 1969.

297. INAC file 1/25-1-7-3, volume 2, To Mrs. G. Long from J.B. Bergevin, 2 July 1970.

298. INAC file 81/25-1, volume 1, Memo on Education for J.B. Bergevin, 2 July 1969.

299. INAC file E6575-18-2, volume 01 (Protected), To the Honourable Kim Campbell from Grand Chief Edward John, 18 December 1992, and attachment, "First Nations Leaders in B.C. Call for Specific Actions Following the Bishop O'Connor Case". This call had been prompted by the dropping of the case against the bishop.

300. INAC file E6575-18-2, volume 01 (Protected), To the Honourable Kim Campbell from Grand Chief Edward John, 18 December 1992, and attachment.

301. INAC file E6575-18-2, volume 01 (Protected), To the Honourable Kim Campbell from Grand Chief Edward John, 18 December 1992, and attachment.

302. INAC file E6575-18-2, volume 4, To the Honourable Tom Siddon from Chief Ed Metatawabin, 15 November 1990.

303. See, for example, NAC RG10, volume 3711, file 19850, MR C 10125, To L. Vankoughnet from E. Dewdney, 12 July 1888; and INAC file 1/25-20-1, volume 1, To L. Jampolsky from..., an ex-student, 24 December 1965.

304. NAC RG10, volume 3920, file 116818, MR C 10161, To the Indian Commissioner from D. Clink, 4 June 1896.

305. NAC RG10, volume 3922, file 116820-1, MR C 10162, To D. Laird from F. Pedley, 25 February 1905.

306. NAC RG10, volume 6251, file 575-1 (1, 3), MR C 8645, To D.C. Scott from G. Campbell, 1 February 1915.

307. INAC file E6575-18, volume 10, To J. Fleury, Jr. from J. Tupper, 19 June 1990.

308. INAC file E6575-18, volume 13, House Response, J. Cochrane, 24 April 1992. This was a departmental estimate.

309. "Abuse report too hot, shelved – Author says study revealed epidemic", *Winnipeg Free Press*, 24 July 1992. The story refers to a report, *A New Justice for Indian Children*, compiled by the Child Advocacy Project of the Children's Hospital, Winnipeg, which studied conditions on Manitoba reserves.

310. See, for example, INAC file E6575-18-2, To C. Belleau from R. Frizell, 1 June 1989 and attached correspondence; To J. Cochrane from M. Sims, 16 April 1993; To D. Mullins from R. Frizell, 2 June 1989; file E6575-18, volume 10, To H. Swain from N.D. Inkster, 10 December 1990, and attached correspondence; To J. Bray from H. McCue, Communications Strategy and Press Line, 20 July 1990, and attachment, "Frappier Case in the Yukon and Memorandum – Examples of First Nations Communities Responding to Residual Effect of Abuse in Residential Schools", 21 June 1990; and Terry Glavin, "Anglican Priest faces sex counts in new trial", *The Vancouver Sun*, 29 May 1989, p. A9.

311. See, for example, NAC RG10, volume 6262, file 578-1 (4-5), MR C 8653, To R.A. Hoey from D.J. Allan, 4 March 1944, and attached correspondence; and volume 6451, file 883-1 (1-2), MR C 8773, To the Secretary from I. Foughner, 15 June 1922, and attached correspondence.

312. INAC file E6575-18, volume 10, Press Line – Child Sexual Abuse in Indian Residential Schools, 20 July 1990.

313. "Reports of sexual abuse may be low, expert says", *The Globe and Mail*, 1 June 1990, p. A3.

314. The report is noted in INAC file E6575-18, volume 10, Communications Strategy, Child Sexual Abuse in Residential Schools, n.d.

315. INAC file E6757-18, volume 13, *A New Justice for Indian Children,* Child Advocacy Project, Children's Hospital, Winnipeg, 1987, p. 24.

316. INAC file E6757-18, volume 13, Memorandum for the Deputy Minister from J. Cochrane, 6 June 1992, and attachment, "First Nations Health Commission – May 1992 – Proposal, Indian Residential School Study, Draft No. 4". For further discussion of the effects, see L. Bull, "Indian Residential Schooling: The Native Perspective", and N.R. Ing, "The Effects of Residential Schools on Native Child-Rearing Practices", *Canadian Journal of Native Education* 18/supplement (1991).

317. The Canadian Conference of Bishops, "Let Justice Flow Like a Mighty River", brief to RCAP (Ottawa: CCCB, 1995), p. 16.

318. INAC file E6575-18-2, volume 4, To The Honourable Tom Siddon from John Siebert et al., Aboriginal Rights Coalition, August 1992.

319. INAC file E6575-18, volume 10, To Bill Van Iterson from J. Fleury, Jr., 21 June 1990.

320. INAC file E 6575-18-2, volume 04, To Mr. T. Siddon from ..., 1 November 1990.

321. INAC file E4974-1, volume 1, Unedited Transcript, Statements by Members, Rod Murphy (Churchill), 19 November 1990.

322. INAC file E6575-18-2, volume 04, To S. Morton from R. Bélair, 8 February 1991.

323. INAC file E6575-18, To J. Fleury, Jr. from J. Tupper, 19 June 1990.

324. INAC file E4974-1 volume 1, Pressline: The First Canadian Conference on Residential Schools – Government's Response, 21 June 1991.

325. INAC file E6575-18-2, volume 01 (Protected), Child Sexual Abuse in Residential Schools, Memorandum for the Deputy Minister from W. Van Iterson, 11 June 1990.

326. INAC file E6575-18 volume 10, Communications Strategy, Child Sexual Abuse in Residential Schools, Draft, 1990.

327. INAC file 6575-18-2, volume 01 (Protected), To Bill Van Iterson from J. Fleury, Jr., 21 June 1990.

328. INAC file E6575-18-2, volume 04, To ... from Tom Siddon, MP, 14 December 1990.

329. INAC file E6575-18, House Response, J. Cochrane, 24 April 1992.

330. INAC file E6575-18-2, volume 04, To John Siebert from Tom Siddon, MP, 15 December 1992.

331. INAC file E6575-18, volume 10, Briefing Card – Will the Minister of the Department of Indian Affairs and Northern Development call an inquiry into sexual abuse of Indian children by teachers and clergymen at boarding schools?

332. INAC file E6575-18-2, volume 04, To R. Bélair, MP, from S. Martin, 12 March 1991.

333. INAC file E6575-18-2, volume 04, To the Honourable Tom Siddon from John Siebert et al., Aboriginal Rights Coalition, August 1992.

334. INAC file E6575-18, volume 10, Communications Strategy, Child Sexual Abuse in Residential Schools, Draft, 1990.

335. INAC file E6575-18, volume 13, House Response, J. Cochrane, 24 April 1992.

336. INAC file E6575-18, volume 10, Communications Strategy, Child Sexual Abuse in Residential Schools, Draft, 1990.

337. Parliament, Special Joint Committee of the Senate and the House of Commons appointed to continue and complete the examination of the Indian Act, *Minutes of Proceedings and Evidence*, No. 30 (1947), p. 1609.

338. R.S.C. 1985, chapter I-11. See generally, Law Reform Commission of Canada, *Administrative Law: Commissions of Inquiry*, Working Paper 17 (1977). Section 2 of the *Inquiries Act* confers broad powers on the federal government in this regard:

> The Governor in Council may, whenever the Governor in Council deems it expedient, cause inquiry to be made into and concerning any matter connected with the good government of Canada or the conduct of any part of the public business thereof.

See also *North West Grain Dealers Association* v. *Hyndman* (1921), 61 D.L.R. 548 (Man. C.A.), p. 563: "The words in the Inquiries Act, "good government of Canada," are broad, general and designedly used, and extend to all matters and considerations that come within the Federal jurisdiction."

339. See Denise Réaume and Patrick Macklem, "Education for Subordination: Redressing the Adverse Effects of Residential Schooling", research study prepared for RCAP (1994).

340. Gerald E. Le Dain, "The Role of the Public Inquiry in Our Constitutional System", in *Law and Social Change*, ed. Jacob S. Ziegel (Toronto: Osgoode Hall Law School, York University, 1973), p. 85. See also Ontario Law Reform Commission, *Report on Public Inquiries* (Toronto: 1992), pp. 9-10.

341. RCAP transcripts, Rankin Inlet, Northwest Territories, 19 November 1992.

342. Law Reform Commission of Canada, *Administrative Law* (cited in note 338), pp. 19-20.

11

Relocation of Aboriginal Communities

As Europeans arrived on the shores of North America, one of the principal effects on Aboriginal peoples, almost from the beginning of contact, was physical displacement from their traditional hunting and fishing territories and residential locations.

Our overview of the history of Aboriginal/non-Aboriginal relations in Chapters 3 to 6 revealed that geographical displacement took many forms. While the Beothuk are believed to have resisted the earliest incursions on their lands, other Aboriginal peoples gave way and moved to locations more distant from the incoming Europeans. As we have seen, some nations were drawn into French/British, British/American and other conflicts of the 1600s and 1700s, and lost their traditional homelands as a direct or indirect result. As settlers replaced soldiers in their territories – often taking over choice coastal, riverfront and agricultural lands – Aboriginal people had to abandon their traditional hunting, fishing and residential lands. They also saw their homelands restricted and often changed as a result of land purchase agreements, the treaty-making process, and the establishment of reserves.

In more recent times, the displacement of Aboriginal people has often taken the form of deliberate initiatives by governments to move particular Aboriginal communities for administrative or development purposes. We use the term 'relocations' to describe these forms of displacement, which are the subject of this chapter. As illustrated by the dramatic relocation of Inuit from Inukjuak, Quebec and Pond Inlet on Baffin Island to the High Arctic in the 1950s, and by the current situation of the Mushuau Innu of Labrador in the province of Newfoundland, the relocation of Aboriginal communities continues to be an issue.

Following special hearings on the High Arctic relocation and the release of our report on the matter in July 1994, we stated that the Royal Commission

on Aboriginal Peoples would have more to say on the subject of relocation. This chapter continues our examination of how the issue has affected other Aboriginal peoples.[1]

In our report on the High Arctic relocation, we called upon the federal government to recognize that moving 92 Inuit to Grise Fiord and Craig Harbour on Ellesmere Island and to Resolute Bay on Cornwallis Island was wrong. We heard testimony from people who endured hardships in an alien land far from their homes and families. Our research showed that the Inuit were not given enough information about the move or about the conditions they would face. We concluded that they could not be said to have given their informed consent to the move. Promises made by government officials were not kept, the relocation was poorly planned and executed, and there was little monitoring of its effects afterward. The report recommended that the government apologize to the relocatees and their descendants and negotiate compensation.

After weighing all the evidence, the High Arctic relocation seemed to us a prime example of how erroneous assumptions by administrators concerning Aboriginal people can lead to abuses of authority and power. We believe that a March 1995 statement about the High Arctic relocation by the Minister of Indian Affairs and Northern Development, Ron Irwin, is a good first step in a process of reconciliation. The minister said that, "no matter how well intentioned, such a major undertaking involving the movement of people would not be done in the same way today."[2]

In this chapter we examine other relocations to demonstrate that the High Arctic case was not unique. We believe that relocations must be seen as part of a broader process of dispossession and displacement, a process with lingering effects on the cultural, spiritual, social, economic and political aspects of people's lives. We are troubled by the way relocations may have contributed to the general malaise gripping so many Aboriginal communities and to the incidence of violence, directed outward and inward. As we noted in our report on suicide,

> the effects of past oppression live on in the feelings of anger and inadequacy from which Aboriginal people are struggling to free themselves.[3]

Governments saw relocation as providing an apparent solution for a number of specific problems. As we show in this chapter, government administrators saw Aboriginal people as unsophisticated, poor, outside modern society and generally incapable of making the right choices. Confronted with the enormous task of adapting to 'modern' society, they faced numerous problems that government believed could be solved only with government assistance. If they appeared to be starving, they could be moved to where game was more plentiful. If they were sick, they could be placed in new communities where health services and amenities such as sewers, water and electricity were available. If they

were thought to be 'indolent', the new communities would provide education and training facilities, which would lead to integration into the wage economy. If they were in the way of expanding agricultural frontiers or happened to occupy land needed for urban settlements, they could be moved 'for their own protection'. And if their traditional lands contained natural resources – minerals to be exploited, forests to be cut, rivers to be dammed – they could be relocated 'in the national interest'.

Justifying its actions by this attitude of paternalism, Canada used its power in an arbitrary manner. Decisions were made with little or no consultation. Communities were relocated on short notice. People's entire lives were disrupted if governments believed it was in their interests to do so. Few Canadians would tolerate the degree of interference in their lives that Aboriginal people have had to endure. In many cases, relocation separated Aboriginal people from their homelands and destroyed their ability to be economically self-sufficient. This loss of economic livelihood contributed to a decline in living standards, social and health problems, and a breakdown of political leadership. As we will see, these effects are evident in varying combinations in all the relocations discussed in this chapter.

There have been instances of non-Aboriginal relocations in Canada, but we are concentrating here on those that affected Aboriginal people because they illustrate so starkly the problems in the relationship between Aboriginal and non-Aboriginal societies. The three traditional goals of Canada's policy toward Aboriginal people – protection, civilization and assimilation[4] – were all expressed through relocation at one time or another, reflecting attitudes as old as the relationship itself.

Our research indicates that the practice of relocation was widespread. There are dozens of examples, some of which are only touched on in this chapter, and they took place throughout Canada. Many Aboriginal communities are still feeling the emotional, social, economic, cultural and spiritual effects of being moved. Some are seeking recognition of their suffering, and redress. Others, anticipating future government-sponsored moves, want to ensure that these relocations are done properly.

The goal of this chapter is to increase awareness and understanding about the role relocation has played in the lives of Aboriginal people and the role it continues to play in communities such as Tsulquate and Burns Lake in British Columbia, Easterville and Tadoule Lake in Manitoba, and Makkovik and Davis Inlet, Labrador, in Newfoundland.

The chapter sheds light on relocation practices, their effects and their implications for Aboriginal communities today, providing a foundation for recommendations to resolve outstanding community claims involving relocation. The material in this chapter also offers guidelines to ensure that future relocations, such as that planned for the Innu of Davis Inlet, are carried out in accordance with standards that respect the human rights of Aboriginal people.

1. Why Relocations Took Place

Relocation was used to solve specific problems perceived by government or other agencies. In some cases, relocation was part of other changes in the lives of Aboriginal people – changes that were often the result of other government policies. Our analysis shows that although there have been many reasons for relocation, and these reasons cannot always be neatly separated, the moves can be grouped into two main categories: administrative relocation and development relocation.

1.1 Administrative Relocations

Administrative relocations are moves carried out to facilitate the operation of government or address the perceived needs of Aboriginal people.

Facilitating government operations was the rationale for many relocations in the era following the Second World War. Aboriginal people were often moved to make it easier for government administrators to provide the growing number of services and programs becoming available through the burgeoning welfare state. We examined several moves of this type because they illustrate both the erroneous assumptions made about Aboriginal ways of life and the arbitrary use of power by government officials.

Relocation in this category often involved centralization and amalgamation – moving widely dispersed or different populations into a common community. The centralization of the Mi'kmaq of Nova Scotia in the 1940s was an example of a relocation carried out primarily to cut the administrative costs of government services to Aboriginal people. In 1964, the Gwa'Sala and 'Nakwaxda'xw of British Columbia were moved from their isolated communities and amalgamated on an established reserve to allow for easier delivery of government programs. Three years later the Mushuau Innu of Labrador were moved to Davis Inlet on Iluikoyak Island because government officials wanted a convenient location for service delivery. We also discuss relocations involving the Inuit of Hebron, Labrador, the Sayisi Dene in northern Manitoba, and the Yukon First Nations. All of these relocations were undertaken primarily for administrative reasons.

Addressing the perceived needs of Aboriginal peoples often involved moving them 'for their own good'. By removing people 'back to the land' from a more or less settled existence, administrators attempted to encourage them to resume or relearn what was considered the traditional way of life. This form of dispersal was also used when officials considered it necessary to alleviate perceived population pressures in a particular region. Dispersing populations was also an effective way to separate Aboriginal people from the corrupting influence of non-Aboriginal society. In short, these kinds of moves had as their aim the preservation and protection of Aboriginal people. The dispersal of Baffin Island Inuit to Devon Island, a project begun in the 1930s, is an example of this kind of relocation, as are several other instances involving Inuit communities in the 1950s and '60s.

1.2 Development Relocations

Development relocations have a long history and have been used frequently around the world as a rationale for population transfer. Development relocation is the consequence of national development policies whose stated purpose is primarily to 'benefit' the relocatees or get them out of the way of proposed industrial projects.

In this chapter we look at development relocations related to agricultural expansion and land reclamation, urban development and hydroelectric projects.

Examples of agricultural relocation are the numerous removals and eventual amalgamation of the Ojibwa on the Saugeen Peninsula in Ontario, beginning in the 1830s. A similar event occurred in the 1930s when the Métis of Ste. Madeleine, Manitoba, were relocated under the authority of the *Prairie Farm Rehabilitation Act* (1935).

Also examined is the 1911 relocation of the Songhees reserve in Victoria. This move signalled a shift in government thinking when the *Indian Act* was amended to give administrators increased power to move reserves that were in the way of urban development.

Finally, we look at two examples of communities relocated to make way for hydroelectric developments. The Cheslatta Carrier Nation in northwestern British Columbia lost its communities when the Kemano dam was built on the Nechako River in the 1950s. The communities of the Chemawawin Cree were relocated because of construction of the Grand Rapids hydro dam in Manitoba a few years later.

Table 11.1 summarizes the types of relocations, the reasons for them, and the examples discussed in this chapter.

The studies we commissioned, as well as other sources, were chosen because they shed light on the different rationales given for moving Aboriginal people over the years. They illustrate both the erroneous assumptions and the arbitrary use of power behind these moves.[5] Other relocation examples could well have been chosen.

Our review of the relocations described in this chapter enabled us to develop an understanding of what happens when communities are relocated. These effects are not unique to the Canadian situation; international research shows that many of the consequences of relocation are predictable.[6] These include

- severing Aboriginal people's relationship to the land and environment and weakening cultural bonds;
- a loss of economic self-sufficiency, including in some cases increased dependence on government transfer payments;
- a decline in standards of health; and
- changes in social and political relations in the relocated population.

The results of more than 25 studies around the world indicate without exception that the relocation, without informed consent, of low-income rural populations with strong ties to their land and homes is a traumatic experience. For

the majority of those who have been moved, the profound shock of compulsory relocation is much like the bereavement caused by the death of a parent, spouse or child.[7] This trauma has been experienced, in one form or another, by all of the communities we will look at in this chapter.

2. Administrative Relocation

2.1 To Make Things Easier for Government

> Racism is discrimination. Racism is assimilation. Racism is centralization. Racism is telling the person where to live, what language you have to speak, and this is how you're going to live.
>
> Blair Paul
> Eskasoni, Nova Scotia, 6 May 1992[8]

TABLE 11.1
Relocation Types, Reasons and Examples

Type of Relocation	Reasons	Examples from Chapter
Administrative	Carried out for the convenience of government and to make administration of services easier through centralization and/or amalgamation	- Mi'kmaq (Nova Scotia) - Hebronimiut (Labrador) - Sayisi Dene (Manitoba) - Yukon First Nations - Gwa'Sala and 'Nakwaxda'xw (British Columbia) - Mushuau Innu (Labrador)
	Addressing the perceived needs of Aboriginal people by moving them back to the land to encourage self-sufficiency; or moving them away from negative influences of non-Aboriginal settlements	- Baffin Island Inuit to Devon Island - Keewatin Inuit: series of moves
Development	Land needed for agriculture	- Ojibwa (Ontario) - Métis of Ste. Madeleine (Manitoba)
	Land needed for urban growth	- Songhees (British Columbia)
	Land needed for hydro dam construction	- Cheslatta T'en (British Columbia) - Chemawawin Cree (Manitoba)

The Mi'kmaq of Nova Scotia

In Chapter 4, we described the Mi'kmaq as the People of the Dawn. They were among the first peoples to discover Europeans on their shores, and for centuries the Mi'kmaq have been forced to adapt to changes brought by the newcomers. Like other Aboriginal peoples, their land was taken, first for lumbering, then for settlement. Disease drastically reduced their population. The expansion of European settlements reduced their territory.

By the early part of this century, the Mi'kmaq of Nova Scotia lived on 40 small reserves scattered around the province. Much of the income earned by Mi'kmaq families came from work in industry or agriculture. Some Mi'kmaq operated their own farms and sold their surplus, while others hired themselves out as labourers on non-Aboriginal farms. Many others went annually to harvest blueberries in Maine, a migration pattern that still exists to a limited extent. As the wage economy became more important, the amount of time spent hunting, trapping, fishing and making handicrafts declined.

> The seasonal variation in Micmac work continued, however, and there was little year-round stable employment in evidence. A typical pattern involved trapping, fishing through the ice, logging, and handicraft production in the winter months. In the spring, fishing, planting crops, participating in river drives of logs, and loading ships was common, and many of these activities, plus the tending of crops or construction work, would carry over into the summer.[9]

The depression of the 1930s accelerated the trend of Mi'kmaq losing "their rather tenuous foothold in the industrial economy."[10] Large numbers of Aboriginal people, already at the bottom of the social and economic heap, had to turn to the government for help. As the cost of supporting the Mi'kmaq began to rise, Indian affairs looked for ways to reduce expenditures. It found the answer in a report from the local Indian agent in 1941. The report stated that the annual cost of Indian administration had risen from $16,533 in 1910-11 to $168,878 in 1940-41.[11] The agent recommended centralizing the Mi'kmaq on two reserves – Eskasoni on Cape Breton Island and Shubenacadie on the Nova Scotia mainland. Such a move would reduce costs and improve services, it was reasoned, by achieving economies of scale.

Although the idea of centralization had existed since the end of the First World War,[12] it took a perceived financial crisis at the end of the depression, combined with changing attitudes toward government intervention in the lives of Aboriginal people everywhere, to bring it about. When centralization began to be implemented in 1942, intervention was becoming an increasingly common policy.

Between 1942 and 1949, 2,100 Mi'kmaq living in some 20 locations – reserves scattered in rural areas and urban peripheries – were pressured to relocate to Eskasoni or to Shubenacadie. The size of each reserve doubled.

Relocation affected the life of the Mi'kmaq in Nova Scotia more than any other post-Confederation event, and its social, economic and political effects are still felt today.

> Beginning in the 1940s we became the targets of a number of ill-fated social engineering experiments initiated by officials from the Indian affairs branch. One such experiment was "centralization" whereby Mi'kmaq were forced to leave their communities and their farms to take up residence at one of two reserves designated by Indian affairs....The stated purpose of this exercise was to make it easier for bureaucrats to administer our people at two central locations. But the effect was to take more of our people off the land, deny them their livelihood and force them to live on two overcrowded containment centres.
>
> Alex Christmas, President
> Union of Nova Scotia Indians
> Eskasoni, Nova Scotia, 6 May 1992

Getting agreement proved difficult. Many people on smaller reserves didn't want to move, since they were employed near their homes.

> However there were more Indian people that were unemployed and were living in poor conditions. So the [Indian affairs branch] took advantage of the poor conditions and promised a lot of the people that if they would either move to Shubenacadie or Eskasoni they would get the following benefits: they would get jobs, new homes, schooling for their children, medical services on the reserves, churches with priests living on the reserves, farms with livestock of their choice. Also, the homes will be so complete that all you'll have to do is turn the key and move in.[13]

Officials visited the Mi'kmaq grand chief twice, intent on convincing him that the new policy was in the best interests of his people. The grand chief signed a letter outlining the benefits of centralization; to the government, this represented Indian consent to the relocation plan. Interviews conducted during the 1970s and 1980s, however, indicate that many Mi'kmaq failed to see how the grand chief could have made such a decision without consulting the rest of the people. Many Mi'kmaq did not read or speak English, making it difficult for them to understand what was about to occur. The government also enlisted the support of the church, and the devoutly Catholic Mi'kmaq found it hard to reject the instructions of their priests, who told them they must move.

The original residents of Shubenacadie and Eskasoni were not consulted about the centralization scheme, and there was strong resentment toward the newcomers encroaching on what was perceived as meagre territory. Through the 1940s, many of the Mi'kmaq who were to be relocated opposed the amalga-

mation through letters and petitions, often accompanied by names of non-Aboriginal supporters. However, Indian affairs policy discouraged Aboriginal people from direct communication with Ottawa, and letters were returned to field agents. Opponents argued that relocation would mean moving away from established homes close to medical services, stores and employment in urban areas to places where none of these would be available. The Eskasoni reserve, for example, lacked fuel wood, adequate timber supplies, sufficient hunting, fishing, and agricultural resources, and dependable roads. In general, Shubenacadie and Eskasoni were incapable of supporting expanded populations.

Coercion was used in several ways against those reluctant to move. While some were lured by offers of jobs and improved housing, others were coerced by threats and the actual termination of educational, medical and general welfare services on their reserves. Patterson writes that during centralization "the Department refused to recommend Veteran's Land Act grants to Indian veterans who wanted to live outside of Shubenacadie or Eskasoni."[14]

Little planning by Indian affairs, coupled with numerous bureaucratic blunders by field agents, helped make the project a failure. For example, flawed construction plans, incompetent supervision and delayed supplies of materials resulted in only ten houses being built on each reserve by 1944. Meanwhile, Aboriginal labour was used to construct new homes for non-Aboriginal teachers and RCMP, and community infrastructure such as offices and a school (although schooling was not available for up to three years after the first relocations).

Marie Battiste describes living conditions at Eskasoni after her parents left the Chapel Island reserve in 1946:

> Some people moved with just tents, and lived through the winter. But my parents moved in with my mother's cousin, which at least gave far more protection than a tent. My mother had three children, her cousin five.

Living two or three families to a house was not uncommon, and the quality of the houses left much to be desired, because

> ...the government built only the shells of the houses, but not the interiors, and there was no insulation. It was a very cold house, heated by a wood stove. People put mattresses on the floor. My aunt did not have any finished flooring, and from upstairs you could look down to the kitchen between the boards. For many years the house never got fixed up; her husband became so angry about it all that he would never fix it, and eventually when his son was grown, he finished it.[15]

The government saw agriculture as the panacea for "the Indian Problem".[16] However, agricultural projects at the expanded reserves collapsed when an Indian

agent replaced cows with goats, which ate newly planted fruit trees, and when seed potatoes were ruined after they were sprinkled with kerosene to keep people from eating them. All wells at Eskasoni were contaminated and water was unfit for drinking. Malnutrition and hunger prompted a general strike by Mi'kmaq labourers, who were working for half the prevailing standard wage. Some Mi'kmaq families who had moved to Eskasoni returned to their former homes.

Meanwhile, there were tensions between Indian affairs field staff and Ottawa headquarters. In January 1945 the director of Indian affairs criticized the actions of the local Indian agent. The Indian agent accused the department of failing to recognize that Eskasoni was an unsuitable site for centralization.

> Not only did it lack timber resources to support the immediate building program, but insufficient stands of timber in the vicinity of the reserve would make it impossible to operate small-scale wood-related industry there or to meet longterm fuel and winter employment needs. [The agent] felt farming, fishing, trapping and hunting had to be eliminated from consideration as significant sources of food or revenue.[17]

He also accused Ottawa of having no clear cut policy on centralization and of failing to provide necessary resources to make the project feasible. Frustrated and disillusioned, he resigned from the department in 1945. By this time, Indian affairs officials were privately acknowledging the possible failure of the centralization scheme. Nevertheless, in 1947 Indian affairs endorsed a plan to secure the co-operation of the local press in an attempt to create a positive image of Eskasoni as a "model community".[18]

The centralization was called the "first social experiment of its kind in Canada" and was heralded as something that other parts of the country were watching with great interest. However, this designation "completely obscured the fact that it was really an attempt to bring the Nova Scotia administration more in line with the type of administration that prevailed on the larger reserves further west."[19]

By the end of 1948, 100 houses had been built at Eskasoni and 80 at Shubenacadie, but these fell short of what was needed for complete centralization. After seven years of implementing the centralization policy, half the Mi'kmaq population had not moved to either of the two reserves. Only one reserve – Malagawatch – was completely vacated. Meanwhile, welfare costs had risen among the Aboriginal populations living in the two central reserves, dependency on government services increased, schooling was not always available, and most houses were overcrowded. Eskasoni and Shubenacadie were communities of almost complete unemployment and almost total welfare dependence. They had become places that could support only "the old, the sick and the families who constantly require assistance".[20]

Centralization resulted in a loss of isolation and autonomy, and the Mi'kmaq saw community control shift even more into the hands of outsiders.

For example, the RCMP took the place of community-based discipline, and health authorities began interfering with the way infants were nursed and children were raised. Traditional community leadership was displaced by the Indian agent and other government officials. The resident priest now looked after all religious matters, and nuns and priests were put in charge of education.[21]

There were also economic consequences:

> Those Indians who moved were not only those receiving welfare, as [Indian Agent W.S.] Arneil had intended, and the result was that a substantial number who had made successful economic adaptations at their small reserves through small-scale farming and the like had to give up these activities.[22]

Although the government's public position was that the policy was in the best interests of the Mi'kmaq, "the general consensus among Indians and whites familiar with the scheme is that the Indians became more dependent on the government as a result of centralization". Interviews with relocatees in the 1970s and '80s indicate that the Mi'kmaq suspected that centralization was "simply a way of moving Indians out of public view".[23] Others regarded the relocation scheme as a failed experiment:

> We were the guinea pigs. If centralization had succeeded for us then I suppose it would have been implemented for all the Indians in Canada. But centralization didn't work for us. Because most of us didn't like it and we fought against it.[24]

Relocation succeeded only in removing many Mi'kmaq from their land, eroding whatever economic self-sufficiency they had. This policy facilitated other assimilation efforts and made it easier to ensure that children were sent to residential schools.[25]

> Centralization was doomed to failure and it took a heavy toll before finally being abandoned....Over 1,000 Mi'kmaq were forcibly removed from their communities, losing farms, homes, schools and churches in the process. During the post-war period we also saw the introduction of residential school systems, which was intended to take away our youth and make them non-Mi'kmaq. As in other areas of Canada, this approach did not succeed, but it did serve to disorient and demoralize three generations of our people.
>
> Alex Christmas
> Eskasoni, Nova Scotia, 6 May 1992

Questions about the way the centralization policy was being administered ended the practice in 1949. The policy had failed on a number of fronts: it did not save the department any money; it did not further the stated cause of

self-sufficiency; and it eventually became an embarrassment to the government. Ironically, while it caused hardship and suffering, it also contributed to a resurgence of Mi'kmaq identity and paved the way for the further politicization of the 1960s and '70s.[26]

The Inuit of Hebron, Labrador[27]

The Inuit of Hebron and Nutak, Labrador, were relocated in the 1950s for reasons similar to those that led to the attempted centralization of the Mi'kmaq. In Labrador this process of centralization

> was viewed by officials as a form of good administration in order to rationalize the provision of services to remote groups of people. When governments realized the social and political necessity of providing housing, schools, health care, and other services to aboriginal peoples, the most cost-effective solution was to gather people together and concentrate their populations, either in new communities in the north, or by resettling them to established southern towns.[28]

Hebron was founded as a Moravian mission station in 1830. By the early 1920s, most of the Inuit families in the region from Napaktok Bay to the Torngat Mountains, north of Hebron, continued to live in seasonal camps but made frequent trips to Hebron to trade and to celebrate Christian events and holidays such as Easter and Christmas. As well, Inuit congregated near the Hebron mission because it provided education and medical services. Nutak, however, did not develop as a small village until the Spanish flu epidemic of late 1918 had decimated the community of Okak. The Inuit families remaining in the Okak region after the epidemic congregated around Nutak, where a store was established by 1919-1920, and they were visited by missionaries from either Hebron or Nain. These communities gave the Inuit a base from which to hunt, trap and fish:

> We had lots of meat, seal meat. They used to go caribou hunting on dog team. Like if they're coming in at night, you could hear a shot; that means they got caribou. They fire a shot. And my grandmother would say "nekiksitavogut" – we got food.[29]

> I remember that I had a good family. The kids were happy and my father and mother. We used to have seal meat, deer meat, birds, fish and trout – whatever they had there.[30]

Hebron relocatees remember life in their community with fondness, as a time when it was less complicated, less painful.

> And when we were in Hebron, we held community dances at our house. We weren't rich moneywise but we were rich in other ways.

> We had a really big house there and because it was a big house the whole community used to come to have their dances in our house...Everyone was happy....[31]

The former manager of the Newfoundland government store in the community supports the Inuit assessment of the quality of life in the community. "They were as good [seal hunters] as there was in northern Labrador....There was a sense of community and self-reliance."[32]

There was considerable discussion during the 1950s about the viability of northern Labrador communities. These discussions were between the provincial government's department of public welfare, division of northern Labrador affairs (DNLA), the Moravian mission, and the International Grenfell Association, which provided medical services in the region. Very little of the discussion about the viability of Nutak and Hebron involved the Inuit.

During this time, major changes were taking place in the coastal economy. Construction at Goose Bay and radar stations along the coast were drawing people away from trapping and fishing into better paying wage labour jobs. This trend led to major shifts in population from "isolated homesteads into Goose Bay and into Hopedale and Makkovik". However, most of the Inuit of Hebron continued to rely on hunting and fishing for their income.

> The availability of employment and the relative ease with which families of Inuit and mixed Inuit-European ancestry were adapting to steady jobs in growing communities presented a dilemma to officials familiar with the Labrador region. The question they pondered was whether the traditional harvesting economy based on fishing, sealing, hunting and trapping should be promoted or whether community amenities should be developed to improve health and educational standards so that people would have a better opportunity to gain employment. Implied in this proposition was that a harvesting economy was incompatible with the functions of a stable community because resource activities were conducted at remote seasonal camps.[33]

The assumption that the subsistence lifestyle of Inuit was untenable was common and was part of the outlook of administrators of the era, as the following quotation illustrates:

> Civilization is on the northward march, and for the Eskimo and Indian there is no escape. The last bridges of isolation were destroyed with the coming of the airplane and the radio. The only course now open, for there can be no turning back, is to fit him as soon as may be to take his full place as a citizen in our society. There is no time to lose. No effort must be spared in the fields of Health, Education,

> Welfare and Economics. If industrial development comes first to South and Central Labrador, the North will provide some shelter to the people concerned, but if it should break in full fury into their immediate environment effective steps will have to be taken to protect them during the next two or three decades of the transition period....[34]

The fact that their lifestyle was devalued by administrators had particular relevance for the future of the Hebronimiut ('people of Hebron'), whose dependence on hunting and fishing had produced a highly dispersed population. It was felt that the way to ensure Aboriginal people's survival was to incorporate them into industrial society. Gathering their dispersed members together in one or a few places was key to this plan.

The government, the Moravians and the International Grenfell Association had their own interests to pursue. The Moravian church, for example, had long proposed amalgamating the entire northern population at Okak Bay. The Grenfell Association attributed the region's high rate of tuberculosis infection to poor housing standards in Nutak and Hebron. "Thus health, housing and community structure offset the advantages of the local resource economy" and led to the relocations of the Inuit of Nutak in 1956 and Hebron in 1959.

> In the mid-1950s the people of Newfoundland were going through throes of resettlement, abandoning a way of life, as they were led to believe, for a better life with easier access to education, health services and employment opportunities. It was about this time that the call came down to move a small number of Inuit, no more than a couple of hundred, scattered along the coast of Labrador from the most northerly settlements and outlying areas of Hebron and Nutak.
>
> They were told that the government store would be pulling out within the year and that the church would follow. They were promised, like others, better things, including housing, which was very late in the end in coming. They were given the choice of three settlements to which they could move, actually four. All of this was done with no consultation, with no preplanning whatsoever, neither for the movers nor the receiving settlements.
>
> Beatrice Watts
> Happy Valley-Goose Bay
> Newfoundland and Labrador, 16 June 1992

Relocating the Inuit fit in well with the Newfoundland government's resettlement policy. After joining Confederation in 1949, the province encouraged modernization based on large-scale industrial development and population centralization. In 1953 it introduced a program to encourage outport residents to move to larger centres:

> The program was administered by the Provincial Department of Public Welfare and the amount of money given under it was small. The maximum allowance available was $600 per family and in most cases the assistance given was under $300. To obtain this money the whole community had to certify its willingness to move, though no restriction was placed on where the people might move.[35]

Between 1953 and 1965, 115 communities were closed under the provincial program and 7,500 people were relocated.[36] While not part of the outport resettlement program, the closure of Nutak and Hebron took place during a time when relocation was seen as part of the solution to a series of problems, including the perceived need to industrialize a resource-based economy.

As we have seen, Inuit of the region considered their land rich in game and their life good. Others saw it differently, however. Carol Brice-Bennett describes the views of officials who recommended relocation of the community:

> Dr. Paddon [of the International Grenfell Association] had the opinion that the traditional Inuit harvesting economy was not viable and the culture of living off the land was 'irretrievably lost'. The same view was expressed by Reverend Peacock, the Superintendent of the Moravian Mission, who considered that Inuit were hindered in their social and economic development by being dispersed and isolated due to their fishing and hunting activities. He advised integrating Inuit in a permanent community not only so that they could benefit from medical and educational services but also to introduce people to the economic alternative of employment.[37]

Views contrary to these were dismissed as old-fashioned.

Following an exchange of letters among the International Grenfell Association, the Moravian church and the government, a decision was made in April 1955 to abandon the northern communities. In September of that year, the head of the Moravian church recommended that plans not be made public. He pointed out that many Inuit were moving north, not south, during the summer fishing season. He emphasized the importance of centralizing the Inuit in order to "civilize" them.[38] The letter writer did not, however, refer to the fact that the church had long been looking for ways to cut the cost of operations in northern Labrador and that centralization fit this plan.

In an internal memorandum dated 29 September 1955, W. Rockwood, a provincial official, warned that the department "is not at present organized, staffed or equipped to undertake a program of this magnitude [that is, the relocation of two communities]."[39] Nevertheless, the following April, Nutak was ordered closed. Hebron received a short reprieve.

Records show there were immediate concerns about whether proper planning could be done for the Nutak relocation before the fall freeze-up. Despite

misgivings, Mr. Rockwood later reported that enough houses had been built for the Nutak people in Nain, Northwest River and Makkovik and that "[t]he people who were transferred from the Nutak district were, by the end of the season, better housed than they had ever been in their lives before."[40]

When they heard that the closure of Hebron would follow after Nutak, the community elders responded with a handwritten letter (in Inuktitut) to the provincial minister of public welfare. The letter stated clearly that they did not want to leave their homeland, but also suggested that people would comply if they were assured "steady work with good wages" and "good houses". The elders requested that they be better informed about their future and emphasized the desire of the Inuit of Hebron to remain in their community. In the Moravian minister's English translation of the letter, however, the content was altered to emphasize an Inuit willingness to exchange their community for jobs, high wages and new houses in the south.[41] The people were assured that there were no plans to move them and that they would be given advance notice of any change in policy.

In 1958, the Moravian church decided to close its mission at Hebron the following year to save money. Then the provincial government ordered its supply depot at Hebron closed in August 1959. It was determined that the relocation would take place between July 1959 and the following August to allow sufficient time to construct homes in Makkovik and other, more southern, communities.

Government officials and representatives of the International Grenfell Association and other agencies flew to Hebron to inform people of the decision. Although 'consultation' took place during a church meeting, the gathering was more to inform the people of the demise of the community than to discuss or negotiate a relocation. The Hebronimiut responded to the news with silence, which the non-Inuit assumed was assent to the plan. During later interviews, however, Hebronimiut explained their silence by stating that this meeting should never have taken place in the church:

> We were told that the meeting will be held in the church and nothing about the relocation beforehand. Not one person said "you are going to be relocated" until we were in the church. When it was said, no one said anything because to us the church is not the place for anything controversial. We were really shocked.[42]

Brice-Bennett suggests that the reluctance to speak related not only to respect for the sanctity of the church but also to the fact that the announcement was made by a group of officials who represented institutions on which Hebronimiut depended for services to maintain the community. Their leaders and methods of dealing with serious subjects through discussion in the elders council were ignored.[43]

Killiniq (Port Burwell)

Although the Inuit of Killiniq were recognized as a signatory to the James Bay and Northern Quebec Agreement in November 1975, this did not prevent a gradual deterioration in government services and programs at Killiniq. This decline created an insecure environment and gave rise to a slow outmigration of families in search of settlements with assured access to essential services, especially medical and air transport. Between November 1975 and February 1978, a total of 50 Inuit left Killiniq in search of a more secure environment. On February 8, 1978, the 47 people that remained were notified by radio that the Federal government was sending planes to take them from the community and that Killiniq would be closed.

All of the former residents are now scattered in five host communities. They arrived without housing, without income, and without many of their personal effects. Family groups were broken up and the people separated from their seasonal hunting territory. The "host communities" were neither advised nor prepared for this influx of people and there have been no follow up programs or special funds to help with their resettlement.

Source: Makivik Corporation, "Taqpangajuk Relocation: A Feasibility Study, Phase II", Final Report, volume II (1987), p. i.

To this day, the relocatees express different views about the reasons they were given for the move. Sabina Nochasak of Hopedale says they were told that the "mountains were too high for planes and it was too far for the ships." Another reason is cited by Raymond Semigak of Hopedale: "They told us that we wouldn't be able to go to the hospital if we got sick." Lizzie Semigak and Mark Nochasak of Nain say they heard that government officials felt there were too many people in the houses in Hebron.[44]

Following this meeting, Hebronimiut were told they would be dispersed among three communities. Five families would be moved to Nain, 10 families would go to Hopedale, and 43 families would go to Makkovik. Their only choice in the matter was to decide how relatives and families would be separated according to these quotas. This separation of family members – some of whom did not see each other again for long periods of time – caused considerable grief among Hebronimiut after the relocation.

Housing construction in the receiving communities got off to a slow start, and there was some discussion of delaying the move. However, things had gone too far to turn back:

> [E]verybody was very confused about whether in fact they were going to move or not. Word had filtered down that in fact the government would not have the houses done in time and that maybe they would delay the move. But what was quite obvious already by then was that many of the people had cannibalized their houses, literally used them for fuel and were living in tents in expectation of moving. So, it became more and more obvious to the government that they really had burnt their bridges and that they couldn't delay it for a year.[45]

At one point the move was postponed but the Inuit said they did not want to wait until the following year. Just as quickly, the move was on again, and the people boarded a boat at the beginning of October for the trip south. Andrew Piercey of Hopedale remembers the scene:

> I was the very last one to leave Hebron [along] with Benjamin Jararuse and Ted Baird...We were the last ones to leave our home. The *Trepassey* was there waiting for us while we were shooting at the dogs in the evening. That same night we left for Nain. What dogs were left were put aboard the *Trepassey* the last time.[46]

Beatrice Watts describes the nature of the transition that had to be made:

> The Inuit from Hebron and Nutak had been accustomed to living in small family hunting camps, living a more or less seasonal nomadic lifestyle. They were transplanted into settlements of 100 to 300 people who barely had enough housing for themselves and who were already accustomed to being ruled by a combination of church elders, missionaries, store manager, welfare officer and some form of law enforcement.
>
> Beatrice Watts
> Happy Valley-Goose Bay
> Labrador and Newfoundland, 16 June 1992

Many of the Inuit went initially to Hopedale because it was the only community that came close to being able to accommodate a rapid increase in population. Besides the five houses constructed by the government that summer for relocatees, ten temporary structures were erected and two empty houses rented. Thirty-seven families – 148 people – were jammed in for the winter.

When they arrived, the Hebron Inuit discovered they were to be segregated into little 'Hebron' villages away from the core of the southern towns. Being strangers in these new towns, and having no knowledge of the lands surrounding them, intensified the difficult adjustment period. Nor did the host communities have any choice in this relocation process; they were simply expected to accommodate the influx of new people.

Sufficient houses to accommodate the Hebron population were not completed until 1962. At this time, 30 Hebron families were moved again, this time from Hopedale to the new houses built in Makkovik, a town populated predominantly by people of European or European-Inuit ancestry who spoke mainly English. This meant that, within a period of three years, Hebronimiut had to reorient themselves a second time to a strange social, cultural and geographic environment.

Although Inuit from Hebron were given new houses at Makkovik, a house was not sufficient compensation for the economic and social losses that families experienced in the alien environment. Hebronimiut grieved not only for their former community but also for summer camps along the northern Labrador coast, accessible from Hebron. Insult was added to injury as Hebronimiut watched non-Inuit using their homeland for recreational purposes.

The officials who planned the move assumed that the transition to new locations would be "effortless...because they believed that Inuit hunters and fishers could transfer their activities to any environment so long as they had wild game." This mistake was also made by the proponents of the High Arctic and other Inuit relocations. Those implementing the relocation also operated on the erroneous assumption that all Inuit were alike and that they would be able to get along when thrown together in southern communities. This ignored the cultural differences between the people of Hebron, Nain, Makkovik and Hopedale.

> As newcomers at Hopedale and Makkovik, Hebronimiut were interjected in communities with established social and economic patterns, leadership and norms of behaviour. Each community had its own particular features, just as had existed at Hebron, and Labrador coastal inhabitants recognized and respected the privileges that were rooted in being members of a community. Hopedale and Makkovik residents had already arranged a system of land use regarding harvests of resources which had commercial value and they had vested claims to the best fishing, sealing and trapping areas.[47]

As in the case of the High Arctic relocation, officials failed to consider the vital link between Inuit and their land. "It's not the same, not even near the same," Hebron relocatee Sem Kajuatsiak said in describing the difference between his former home and Nain, where he now lives. Paulus Nochasak put it simply: "We had to move to a place that's not our land."[48]

Relocation affected all aspects of the relocatees' lives. In Hebron, they had a distinct identity; they lived off the land, and their society was held together by close bonds of kinship, marriage and friendship. These bonds were severed as families and friends were separated and moved. In the new communities, they had no claim on resources and they lacked the knowledge needed to live off the land in a new region. Population increase put a strain on resources along the

southern coast. Since fewer hunters could hunt, dependence on welfare increased. Even the very young became conscious of their newly acquired low status.

> Their poverty, unfamiliarity with the English language, particular dialect of Inuktitut, unusual family names, inexperience with the landscape, cultural preference for seal and other customs – combined with their residence in isolated enclaves – set them definitely apart from other community members.[49]

With the focus gone from their lives, many Hebronimiut turned to alcohol. Social problems increased, as did rates of illness and death.

During the 1960s and 1970s, individuals and families left Makkovik for Nain, where they had better access to northern fishing and hunting areas. They also moved to reconnect with close relatives, to marry local residents or to live in a place where Inuit formed the majority of the population and shared a common language and way of life.

The 1974 Royal Commission on Labrador concluded that the northern resettlement program was an ill-advised and futile operation that had caused injustice and hardship, both to northern Inuit and to residents of host communities. It concluded that government-sponsored relocation schemes in Labrador have

> been looked upon by Government as an end in themselves, and not as a part of a developmental process. Other basic flaws have been created by ignoring or not ascertaining the wishes and aspirations of all those who would be affected by resettlement, and by extremely poor planning.[50]

Over time, most Inuit from Hebron and their descendants have become resigned to the communities where they now live. The children and grandchildren of people who were moved from Hebron now identify themselves with the place of their birth. While many Hebronimiut still mourn for their lost homes and lives, they do not wish to inflict the experience of relocation on their children.

The Sayisi Dene (Manitoba)[51]

> We are changed forever because of the living hell we experienced in Churchill. We have been demanding an apology from Indian affairs or the government of Canada for 20 years. But they are still denying that they did something terribly wrong to us.[52]

> ...who are we to judge where men should live and how they should be happy.[53]

The story of the 1956 relocation of the Sayisi Dene of northern Manitoba is both tragic and complex. It is another example of government officials operating with

no specific relocation policy, attempting to find solutions to a number of perceived problems. Their actions were taken, however, with little understanding of the effects they might have. There was some consultation with the Sayisi Dene *after* the decision to relocate had been made, but whether the people can be said to have had an opportunity to give their free and informed consent is questionable. In testimony in Thompson, Manitoba, and at a special consultation on the relocation, the Commission was told that the people did not consent to the relocation and that, because it was carried out with undue haste, serious mistakes were made that increased the difficulties faced by the Sayisi Dene.[54] However, once the decision was made, there was little time to plan or to determine potential consequences. We heard many stories about the destructive effects of this relocation, about the suffering of people torn from their homeland, and about their feeling of powerlessness to stop what was happening to them.

The relocation and its aftermath appear to have been the result of an arbitrary use of power by the government, an assessment supported by the fact that nearly 15 years after the relocation, a new generation of government officials classified the move as a serious mistake.[55]

In the mid-1950s, the Sayisi Dene lived in several places in northern Manitoba. Some were at Little Duck Lake, the site of a Hudson's Bay trading post. Called Caribou Post, it was close to the migration path of the caribou on which the people depended. Other Sayisi Dene had migrated over the years to the port of Churchill, on the shore of Hudson Bay, to look for wage employment. Still others made their home at North Knife River, a small village north of Churchill. Our examination looks at the relocation experience of the group at Little Duck Lake, which was moved to North Knife River and eventually ended up in Churchill. Visits to Churchill had long been part of the lives of the Sayisi Dene, and it was an important centre for acquiring trade goods and implements, but their previous movements in and out of Churchill had been a function of choice, not coercion.

The Sayisi Dene are members of the Fort Churchill Dene Chipewyan Band. They are Athapaskan speakers whose traditional lands cover parts of northern Manitoba and southern portions of what will be the new territory of Nunavut. Their most important source of food was always the caribou which migrate through this region.

When the Sayisi Dene entered into a treaty with the Dominion of Canada in 1910, under an adhesion to Treaty 5, they were promised land and the right to continue to hunt, trap and fish in their traditional territory. However, despite promises of 160 acres for each family of five, no reserve was created. A 1914 letter from the surveyor general to the deputy superintendent of Indian affairs "reports that the Indians wanted to be inland (away from Churchill) and 'such a trip would be extremely hazardous, as it would probably take a month to go in and do the work and come out.'"[56]

The Sayisi Dene maintained their independence and continued to follow the caribou. For the most part, their lives were relatively untouched by the influx of non-Aboriginal people into the region, who congregated mostly at Churchill.

From the beginning of the First World War, there were internal government discussions about moving some of the Sayisi Dene to different locations, and in several instances small numbers of people were relocated.[57] In 1925, the Indian affairs department considered a specific proposal to relocate the Sayisi Dene to Reindeer Lake, a location thought suitable because the Sayisi Dene continued to hunt on both sides of the Manitoba-Northwest Territories border. As well, members of a related band had been converted to Catholicism by a missionary based at the lake. Petch writes that the department may have seen this as an opportunity for mass conversion and assimilation. However, the Anglican bishop of the diocese of Keewatin intervened, and the plan was dropped.[58]

The idea of relocation remained alive, however, and more fateful discussions resumed in the 1950s. From 1953 to 1956, the Hudson's Bay Company, the Manitoba government's game branch, and the federal Indian affairs department talked about the need to move the Sayisi Dene, seeing relocation as the solution to perceived problems of the Dene at Little Duck Lake.

While discussion occurred in July 1956 between Indian affairs and the Little Duck Lake Band, the documents do not make clear how 'consent' was arrived at. They do show, however, that the meeting occurred *after* the department had made the decision. One of the inducements to move was the promise of material to build new houses at North Knife River.

The move proceeded in two stages. The first took place in August 1956, when most of the Duck Lake group was transported to Churchill by air. The move was carried out quickly, and there was little room on the plane for supplies and personal property. A few other Sayisi Dene made the trip overland and were able to bring hunting and trapping supplies with them. With winter fast approaching, the second stage involved the Little Duck Lake people canoeing from Churchill to North Knife River. The idea was that the Sayisi Dene could winter at North Knife River and migrate to Churchill for employment during the summer.

The promised houses at North Knife Lake never materialized. Instead, the Sayisi Dene lived in repaired cabins. Forty-five tons of building supplies, and several canoes promised to the people, were never delivered.[59] Lack of prior investigation of conditions at the new location can be inferred from a comment by the regional supervisor of Indian agencies, who wondered "whether or not they were able to make a Caribou kill."[60] As it turned out, the caribou did not migrate through the region, and this spelled the demise of the North Knife River settlement; the residents moved to Churchill to join the already overpopulated and makeshift settlement there, after a winter of living on a diet of macaroni and having to do without caribou clothing.[61]

The available evidence suggests three possible reasons for the relocation, although records are incomplete and it is often difficult to discern how decisions were made. Petch speculates that some decisions may have been made without written documentation. In a report on the relocation for the department of Indian affairs and northern development, Skoog and Macmillan suggest that

> An indication of the inability of the federal government to adequately deal with the relocation process, is indicated by the absence of any clear policy document on the process. We have been unable to locate any document that indicates explicit policies were in place with respect to relocations during this period.[62]

The first and most immediate reason behind the evacuation of the Duck Lake group was the 1956 closure of the Hudson's Bay post following the collapse of the fur market in the area. In early July 1956, the Hudson's Bay Company (HBC) advised the Manitoba region of the department of Indian affairs that it was closing the post by the end of September. The acting regional supervisor of Indian agencies met with the Sayisi Dene at Little Duck Lake to discuss their 'plight' and the fact that the government intended to move them to North River, north of Churchill.

> After a very full discussion it was unanimously and amicably agreed by the Duck Lake Band still at this post that they would move to the mouth of the North River. A part of their Band live at this point in hovels during the winter and it is the only logical place for those remaining at Caribou to move to. This spot is located some 45 miles north, up the coast from Churchill and has fish, fur and caribou for their livelihood. From this point they can secure supplies from Churchill by canoe in summer and dog team in winter. All heads of families promised the writer during our meetings that immediately on landing at North River they would construct log houses, and I, in return, promised to provide the necessary roofs, floors, doors and windows for these homes. This part of the problem however will be the subject of another letter.[63]

A second possible reason for the relocation was the belief that Manitoba's game branch wanted the Aboriginal people out of the area in the name of caribou conservation. As we were told during our special consultation in Tadoule Lake, the Sayisi Dene feel strongly that game officials wanted the people moved to a place where they wouldn't be able to hunt caribou. By the mid-1950s, scientists were worried that the population of barren ground caribou was in steep decline, a trend Petch attributes to two factors: part of the caribou's winter range had been destroyed by forest fires, and the Sayisi Dene were killing too many animals.[64]

York Factory Relocation

I would just like to go a little bit into the relocation of the York Factory First Nation in the summer of '57...At the time of the relocation, the Hudson Bay Company was also located in York Factory, which provided store goods to the York Factory Band at that time. And they had heard stories that the Hudson Bay Store would be closing. As a result, the agency at that time had informed these council members and the Band that they would be moving the people that year, in 1957...

The elders have told me stories, the hardships they went through coming down the Nelson River by boats. Some came through by dog team. At that time, there were children involved. At that time, too, the river was at higher levels in its natural form. There were times when the women and children had to get out of the boats so they could travel lightly to get around the rapids and then in that spring, with the breakup of the river, the Nelson River, still had ice hanging around on the banks, and the women had to climb up these banks to get around the rapids, while the men got the boats across on the shore. It was also very dangerous...

It took them a long time to find that place that was to be their new home. When they arrived, they still were living in tents. Then they moved to down the Nelson River which is located in the Split Lake area.

Source: Donald Saunders, transcripts of the hearings of the Royal Commission on Aboriginal Peoples, Thompson, Manitoba, 1 June 1993.

The notion that Aboriginal people were killing too many caribou came from photographs, taken by the game branch and published in newspapers, showing "wanton and unnecessary destruction" to outsiders who did not understand the Sayisi Dene's hunting practices. But what appeared to officials as slaughter had another explanation.

> It was customary for large numbers of animals to be killed at the onset of the cold season. Winter snows would cover the carcasses, acting as a natural freezer. The animals would then be used throughout the winter for dog feed and emergency food. It was a type of reassurance that there would be something to eat in a pinch.[65]

Nevertheless, these photographs were used for the next several years to justify the relocation of the Sayisi Dene out of the region.

The Sayisi Dene assert that the provincial conservation officer in the region did not understand, or care about, their needs. What the government saw as over-

hunting was in fact a traditional Dene practice to ensure the people had sufficient food for the long winter. "The white people have no right to come and tell us that we are killing too many caribou."[66] Skoog and Macmillan state that there is "little argument" that the government wanted to restrict the Dene's caribou hunt.[67]

The third possible reason for the relocation was the long-term goal of integrating the Sayisi Dene into the broader society. The goal of Indian affairs was to "centralize the Indians near a town, where they would no longer depend upon the land for their sustenance, but be provided with housing, schooling, and social services".[68] North Knife River was a lot closer to Churchill, and the services offered by the welfare state, than Little Duck Lake had been. Consistent with these objectives was the hope that eventually the Aboriginal people would find seasonal or permanent wage employment in Churchill. This represented a significant change in approach for the department of Indian affairs. Since the turn of the century, it had tried to keep northern Aboriginal people away from

> ...the questionable benefits of civilization. A letter to the Secretary, Department of the Interior in 1912, stated that action should be taken to remove Indians from towns "before these poor people get debauched and demoralized."[69]

Many of the people flown from Little Duck Lake and later moved to North Knife soon made their way back to Churchill when they discovered that the land around their new home would not support the increased population and when new houses promised by the department were not built.

In 1957, Camp 10, as it came to be known, was set up on a parcel of land measuring 300 by 600 feet, next to the Churchill cemetery. Many of the people from Little Duck Lake wound up at this new location because the North Knife region could not support the increased population. Elders recount the experience of living next to the cemetery as a "horror".

> Sayisi Dene ideology included a fear and respect for the dead. When a person died on the land, they were buried almost immediately with their possessions and the area was not occupied again and no hunting took place. To live beside the dead was to tempt the spirits.[70]

This fear is captured in a letter to the department of Indian affairs from Chief John Clipping. The letter was written for the chief by 16-year-old Peter Thorassie. In it, the chief asks whether his people are ever going to be moved away from the cemetery. "The Chipewyan people do not want to live next to the dead people. Many of our people think that the dead people get up at 12 o'clock midnight and walk around our camp".[71]

Apart from its location next to the cemetery, an additional problem was the bleakness of the site chosen as a temporary home. Camp 10 was located on a rocky, windswept, treeless area that was almost inaccessible except by foot.

There was no fresh water, and water was trucked in on an irregular basis. Sanitation was also a problem. Furthermore, the camp sat along the main polar bear migration path, a fact that meant constant danger to the residents during migration seasons.

By 1960, Camp 10 was a settlement made up of hastily constructed, poorly insulated shacks on skids and had become a symbol "of the Department of Indian affairs' band-aid approach".[72]

> By this time, our people were in total cultural shock. Alcohol slowly crept into a once proud people's lives and took control of them. Death and destruction followed almost immediately, all under the wary eyes of an uncaring town of white, Cree, Métis and Inuit residents. Many of my people died violently, all of alcohol-related deaths, from small babies to young people to elders. Can you imagine...how in twenty short years, a band of people were just about wiped out. In this period, there were very few births, and many people died every year.
>
> Ila Bussidor
> Thompson, Manitoba, 1 June 1993

A number of factors contributed to a decline in the quality of life in Camp 10. Alcohol became readily available. The provincial game branch insisted that smaller amounts of ammunition be issued to hunters to prevent further 'overkill' of caribou, although no restrictions were placed on other (non-Aboriginal) hunters. The sale and trade of country food between households was also discouraged. Caribou hides could be used for handcrafts but not for clothing or dog food. The RCMP shot many of the Sayisi Dene's dogs, claiming they were a nuisance, but in the process they robbed the people of an important asset in the procurement of country food. The dogs were also useful as alarms when polar bears were near, especially since guns were not allowed in Camp 10 because it was within town limits.

> Where was our monies from Indian affairs? I mean, we had no food, no furniture, no running water, and the list could go on. We ate from the dump for God sakes. And they wanted us to become assimilated to the white man's way without consulting our ways.
>
> Nancy Powderhorn
> Tadoule Lake, Manitoba, 4 October 1993

> In the classrooms of the schools, we faced unimaginable racism and discrimination, in our tattered clothes, dirty faces and unkempt hair. No one saw the terror in our eyes, or knew of the horrors we experienced at home, after school, the abuse, physical, mental, emotional and sexual. Many of us relied on the trash cans behind the

> stores and hotels for food. The dropout rate was extremely high among Dene students, even in elementary school, and there was no wonder why. Every member of my generation has a personal account of brutal hardship and despair. We came to believe as children that we were the last Dene people in the world, since our parents could not talk anymore. We were the object of discrimination from every direction. We came to believe at an early age that we weren't Indians, we were lower than that.
>
> Ila Bussidor
> Thompson, Manitoba, 1 June 1993

In 1966-68, 'Dene Village' was established a few kilometres southeast of Churchill. However, the new location did not solve the deep social and economic problems facing the people.

> This situation was becoming embarrassing to the department of Indian affairs, so they decided to move us once again, in 1966, to an area where we would be less conspicuous, to 'Dene Village', three and a half miles out of town behind the Inuit hamlet of Akudlik. By this time, there was very little hope left in the people, and all their aspirations were gone. Our parents continued to die off. We found many adults frozen beside the long cold road to Dene Village, drunk and unable to make it home. During the cold winter blizzards, many houses burned to the ground with those inside. My Mom and Dad perished this way.
>
> Ila Bussidor
> Thompson, Manitoba, 1 June 1993

In 1969, encouraged by a 'back to the bush' movement among Aboriginal people across Canada, experimental villages were set up at North and South Knife lakes in response to social and economic problems in Dene Village. By 1973, Indian affairs proposed a land settlement for a reserve at South Knife Lake, but the Dene refused to negotiate on the grounds that resources there were inadequate to support a large, stable community. When Indian affairs refused to pay for any further moves, several Dene decided to move themselves to Tadoule Lake, an area known for its varied and abundant resources. Soon after, government planes followed with supplies and family members. The new community got reserve status in the mid-1970s – decades after the Dene signed a treaty that promised reserve land.

The community now has a number of locally owned small businesses, and the caribou hunt remains central to community life. However, the Commission's interviews with residents of Tadoule Lake reveal that social and economic problems have not disappeared, dependence on transfer payments continues, and allegations of injustice remain unresolved. One resident, for example, told the

Commission that her husband was apparently run over by a public works truck at Churchill in 1975, but she was not notified by public authorities, nor was she given information about the circumstances of the event. Nor was she given information about insurance or compensation to provide a means of support after the death of her husband.[73]

In the view of the Sayisi Dene, the arbitrary use of government power that marked the relocation of their community continues to find expression in contemporary policies. The fact that their traditional lands have been included within the boundaries of Nunavut adds to the Sayisi Dene's sense of grievance and, they believe, is another example of how their interests have been ignored by the federal government. The people of Tadoule Lake, along with the Oteinadi Dene of Lac Brochet, claim that they

> have traditionally used and occupied approximately 73,000 km^2 of lands and resources which are north of the 60th parallel, and therefore within the Nunavut Settlement Area. By virtue of outstanding treaty land entitlements, Manitoba Denesuline have specific claims to the area.[74]

Petch states that the Sayisi Dene had "no input" into the Nunavut negotiations and, once again, "feel cheated and spurned" by the federal government.[75] In March 1993, the Dene sued the government of Canada and the Tungavik Federation of Nunavut (now Nunavut Tungavik Incorporated), which was negotiating on behalf of Inuit in the region, in the Federal Court. They asserted that they have treaty rights north of the 60th parallel (the southern boundary of Nunavut). The following month, they tried to get an injunction to stop ratification of the Nunavut land claim settlement, a request that was withdrawn during the Federal Court hearing after the Inuit agreed to 'freeze' 42,930 hectares (106,000 acres) of land within Nunavut pending the trial – the amount of unfulfilled treaty land entitlement claimed by the Sayisi Dene.[76]

In summary, the story of the Sayisi Dene is one of constant struggle to have their rights to their homeland recognized. From the mid-1950s to the mid-1970s, it was also a story of numerous physical dislocations – relocations that for the most part had disastrous consequences for the community. A former community development worker, Ravindra Lal, writing shortly after the relocations, stated that "Thoughts should have been *exchanged* on what the alternatives to the move were, or what alternative sites were possible."[77] Lal says the Sayisi Dene were "hopelessly ill-equipped to function in an urbanized environment": few had attended school or had more than a smattering of English; only about a dozen adults had been employed in casual labour before the move; and band members "solidly believed" that the government would look after them. He also says Indian affairs officials responsible for the move "obviously had little perception,

insight, or sympathy or understanding of life at Duck Lake and the possible problems associated with a move." In 1969, Lal wrote,

> The changes experienced by this Chipewyan band in the last ten years gives us some insight into the magnitude with which relocation can affect a group of people; how lives can be wasted through the decisions of an outside few.[78]

The Yukon First Nations[79]

The economic boom associated with the Klondike Gold Rush lasted only a few years following the discovery of gold in 1896. By the turn of the century, the Yukon's population was dropping as the territory's economy went into a long period of decline. From about 1912 to 1942 there was only the "barest administration", as a small public sector struggled to meet public needs.[80]

During this period, most Aboriginal people in the Yukon continued to live as they had for centuries. While the Gold Rush exposed Aboriginal people to new and virulent diseases, it did not alter their economy in any significant way.[81] Gold seekers built towns such as Dawson City and Whitehorse and used major rivers like the Yukon and Teslin as transportation routes, but generally their activities were confined to these relatively small areas. For their part, the Aboriginal peoples of the area were already active in a trading network that ran up the coast of British Columbia into Alaska and the Mackenzie Valley. This subsistence pattern of life was well suited to the fur trade economy, which had been introduced into the region in the nineteenth century. Nor was it significantly altered by the mining economy, since many Aboriginal people continued to make their living from the land, away from the narrow belts of industrial activity. However, an important shift in the economy occurred as Aboriginal labourers were drawn toward the rivers, where they cut wood for fuel for river boats. It was this activity, rather than mining itself, that began to disrupt Aboriginal social patterns in the Yukon.

In 1942, construction of the Alaska Highway by the U.S. army triggered permanent changes in the territorial economy and society. To many Aboriginal people, highway construction is *the* key event in their recent history. In 1992, a resident of the Southern Yukon told us,

> From April 1942 to December 1943 the Alaska Highway came in. This is the fiftieth year celebration of the Alaska Highway. It has brought good things, but it has brought a lot of bad. There were 34,000 construction workers who came into the Yukon to build the Alaska Highway. The lifestyle was changing very rapidly for native people. There was more alcohol; more racial discrimination. Our people started working for money, guiding them. There was more family

> breakdown. There were more diseases: dysentery, hepatitis, mumps, measles, polio. So, the highway brought a lot of grief to our people.
>
> Ann Bayne
> Watson Lake, Yukon, 28 May 1992

Construction of the highway coincided, and in many ways precipitated, another invasion. The military project might have ended the territory's relative isolation from the rest of the country, but it was the introduction of government programs and services that produced the most sweeping changes:

> [T]he highway was the instrument rather than the cause of the social changes that overtook the First Nations people of the Yukon in the post-war period. The family allowance plan, the necessity of attending school, and the rest of the government programs contributed greatly to the changes; the highway simply made it easier for the government agents to reach the people.[82]

> Whether or not construction of the Alaska Highway was the root cause of the changes that altered Indian life in the southern Yukon in the 1940s, it is certain that it had an important effect. New rounds of epidemics resulted in the death-rate doubling in spite of increased medical attention...[83]

Many Aboriginal people felt the allure of this "gravel magnet" and moved to new highway communities to find work, establishing a pattern of migration that continues to this day. When the jobs ended, many were forced to turn to the government for the subsidies that were becoming increasingly available with expansion of the welfare state.[84] Government-sponsored education was another factor tying people to the communities for most of the year.

> After the Alaska Highway came, everything stopped – kids go to school...they don't talk Indian anymore.[85]

The federal government set about providing services to Aboriginal people in the Yukon with the best of intentions. These included health care, education and benefits such as the family allowance. The underlying assumption was that Aboriginal peoples deserved the chance to "live like other Canadians". But these policies had implications for the way Aboriginal people lived.

> To provide modern services to the Aboriginal people of the north, it was best if they were all in one place instead of scattered in the bush. The logic is fairly straightforward. In order that people not 'waste' the benefits of the welfare state by doing what they thought best with them, it was essential for the government to regulate their lives to an unprecedented degree – if the government provided housing for Indians, officials had the right to decide where to build it; if

> the government provided food, it would attempt to tell them what to eat; if the government provided education, it would set the curriculum and decide the language of instruction. This...was a logical and all but inevitable part of social engineering.[86]

In contrast to the Eastern Arctic centralization policy, discussed later, the policy of village development in the Yukon was piecemeal and episodic. Relocations varied according to the Indian agent in charge and government priorities of the period. Government policy was to set up small "residential reserves" near non-Aboriginal communities where Aboriginal people could live. In the words of one official of the day:

> The establishment of these Reserves will assist us to improve the living conditions of the Yukon Indians and will also improve our supervision and administration which will undoubtedly be in the interests of all concerned.[87]

According to another former government official involved in the centralization planning,

> Some of the [reserve] sites date from use in earlier days but many came about as Indian people, by choice, began to camp in proximity to latter day highway settlements. As the camps became somewhat permanent, land was set aside where houses could be built. Encouraging further people to move to these sites, or to relocate to those which seemed to offer better economic opportunity, may have been misguided but it was hardly a grand design by government to force people off the land.[88]

Historian Ken Coates says that

> no single policy initiative...charted a general policy by which Yukon Native people were forced to leave their traditional lands and move to a central village. Government did become more interested in specific groups of Native people when their lifestyles came up against broader economic developments, but only rarely was there a broad sweeping plan for action. Instead, in an inconsistent and uneven fashion, through numerous small decisions and administrative actions, the federal government moved along a general if ill-defined line.[89]

Some of these decisions were taken deliberately, others as a consequence of applying regulations for distributing family allowance payments, in the form of foodstuffs and other benefits. However, Coates adds, "the general thrust of government policy, combined with non-governmental forces, had sweeping implications and substantially recast Aboriginal life in the territory."

Kwanlin Dun (Yukon)

The following excerpt is from a 1971 study on relocating the Whitehorse Indian band. At the time it was written, band members were living on the edge of an industrial area, having been evicted in 1950 from their previous village site on the edge of the Yukon River in the middle of town.

> There are now some 56 families or a total of 300 residents of the Whitehorse village and who live in 46 homes (two welfare homes presently unoccupied). A recent population and housing survey by the Department describes the living conditions. The average dwelling within the village accommodates about 7 persons (6.7) on a floor space of 525 square feet which contains only two bedrooms. The averages hide some cases such as two houses with 16 and 20 occupants respectively. No house has running water or an operative indoor toilet or bath (one welfare house has the toilet and bath – without running water).
>
> The principal problems of the present village since it started has been the lack of space between houses (families). This problem is felt by all and is blamed for many of the minor social problems.
>
> There are many other problems in the village and include location, social equipment, public health and servicing, breathing space, expansion, cultural and recreational program opportunities, and on-site jobs....As one Councillor asked a team of three visiting psychiatrists who were doing a survey of mental health needs in the north – "If you had to live in this village, wouldn't you spend most of your time in the Whitehorse Inn Tavern?"

The matter was examined and dropped repeatedly before the community was relocated in the late 1980s.

Source: Yukon Native Brotherhood, *A Report Prepared by the Whitehorse Indian Village Relocation Steering Committee for the Honourable Jean Chrétien, Minister of Indian Affairs and Northern Development, on the Proposed Relocation of the Whitehorse Indian Village* (Whitehorse, Yukon: 1971), pp. 2-3.

To keep administrative costs low in the era before the war, federal government policies had been directed at keeping people on the land. By the end of the 1940s, the policy was to encourage them to settle in communities. A central feature of this policy was the creation of residential reserves; before this, there

had never been a formal reserve system in the Yukon. Although lands were set aside for Aboriginal use as early as the late nineteenth century, they did not constitute reserves within the meaning of the *Indian Act* but rather were land allocations that were "merely reserved in the records of the department of Northern Affairs and National Resources for the use of the Indians for so long as required for that purpose."[90] The reserved areas were small, and many were not used. After the Second World War, the Yukon Indian agent received authorization to set up a number of residential reserves, "generally near the Alaska Highway and branch highways."[91] Officials also requested more formal recognition of the sites in the face of increasing non-Aboriginal pressures on the land along the highway route. As the Aboriginal population grew, so did the need for better housing and improved services. Improvements were long in coming.

As the reserve network expanded and as the range of government programs grew, administrative requirements led officials to 'encourage' Aboriginal people to relocate to the more accessible sites. For example, the following relocations occurred in the late 1950s: the Aishihik people and the young people from Champagne were urged to relocate to Haines Junction; White River people were urged to shift closer to the highway and services; Ross River people were encouraged to move to Upper Liard Bridge permanently and to amalgamate with that band; and the Pelly River Band moved to Pelly Crossing on the Mayo Road, a more accessible location.

Coates questions the distinction between what he calls major relocations and the smaller government-influenced shifts in Aboriginal settlement. Government initiatives (the welfare state, schooling), as well as changing economic conditions (collapse of the fur trade, renewable resource development, Alaska highway construction), led to relocations that were on a small scale but nevertheless dramatic in scope and completeness. At the end of the Second World War, for example, the majority of Aboriginal people in the Yukon spent most of the year out on the land in camps. Within two or three decades, a good part of the year was spent in government-constructed villages used as a base for continued but declining harvesting activities.

> In most of the North, there were no dramatic, wholesale relocations of communities or peoples. Instead, a series of relatively minor, rarely interconnected government policies created an administrative context in which it became increasingly important for Aboriginal peoples to live in the new communities year-round.[92]

The Gwa'Sala and 'Nakwaxda'xw (British Columbia)[93]

> As far as I know they never needed help from the government financially, they were quite independent, they did everything for themselves, they fished, hunted, trapped – they had everything

> there....now they're living over here they lost everything, they all had their own boats, now they've lost them. They lost their initiative, they seem to depend on the government too much for everything now.[94]

In this account, we focus on the relocation of the Gwa'Sala from Takush, a traditional village on Smiths Inlet on the coast of Vancouver Island, and the 'Nakwaxda'xw from Bahas, at Blunden Harbour. Both groups are part of the Kwakwa̲ ka̲'wa̲kw nation, which ethnographers have referred to by many names, but most commonly Kwakiutl. The traditional territory of the Kwakwa̲ ka̲'wa̲kw nation includes land in and around Seymour Inlet, Belize Inlet and Smiths Inlet, Rivers Inlet, Knight Inlet and Kingcome Inlet, as well as Queen Charlotte Strait and Johnstone Strait on the northwest coast of British Columbia. Like other peoples of the region, the Gwa'Sala and 'Nakwaxda'xw lived by harvesting sea and land resources and were part of an active regional trade network. They also worked as trappers before and after the commercial fur trade began in earnest in the region during the mid-nineteenth century.[95]

In 1912, the main economic activity of the communities was fishing. People lived in log houses and cooked over open fires. A report by an Indian affairs agent that year says much about the perception of administrators. The Gwa'Sala, he reported, were "fairly industrious and law-abiding, but are at a standstill as far as progress is concerned." As for the "Nakwakto Band",

> The members of this band are probably the least civilized of any in the agency, and they do not bear a very enviable reputation. However, during the past year there has been considerable improvement.[96]

The relative isolation of their communities meant the Gwa'Sala and 'Nakwaxda'xw were able to retain their religious beliefs, art and ritual, and social organization. However, it also meant "less access to what few educational and employment opportunities existed and to medical care and treatment"[97] and, indeed, correcting this was part of the motivation for the relocation.

As in the other relocation cases we have examined, federal officials of the time considered the people of these communities backward and impoverished. Moving them, it was thought, would enable government to provide services and bring the people closer to education and employment opportunities.[98] As well, "the relocation would also be a very advanced step toward integration. The new location is adjacent to the non-Indian settlement of Port Hardy."[99]

That their communities were poor was recognized by both government and the people themselves. According to one researcher, many people

> ...were beginning to feel that their remoteness was no longer the source of strength it had once been. In fact, some of them were reluctantly admitting that a move closer to education and health services,

> and to a community that had sewer, water and electricity, might be best for their children.[100]

In the early 1950s the department of Indian affairs and the Gwa'Sala were able to agree that a move was desirable, but they could not agree on a location. The Gwa'Sala wanted to go to Ethel Cove, which was also in Smiths Inlet, near their traditional hunting, trapping and fishing areas; the department wanted them to go to Port Hardy. In the words of the chief at the time,

> The members of our band have gathered together and have discussed plans on the new village. They are very anxious to talk over plans with the [Indian] agent...[101]

The department rejected the idea. It wanted the people to move out of their "isolated" location.

> It was clear that the DIA wasn't anxious to promote the notion of the people staying in their isolated locations, or to give them any help in order to do so. This can be seen to be true because the DIA actually had on their files engineering plans to make both Takush and Blunden more liveable and yet they declined to do so.[102]

The engineering plans on file at the DIA office "would have addressed some of the problems that were later cited as reasons for the relocation."[103] However, in the early 1960s, the department began making plans to move the two communities and amalgamate them on the Kwakewlth's Tsulquate reserve, near Port Hardy. The order came down from the top to the Indian agent, who in turn pressured the bands to move.

Over the years, government agents had attempted to get the bands to agree to relocate, but in 1962 the government threatened to cut off benefits and the two villages voted in favour of the move. Thus, coercion – in the form of withheld or eliminated funding for housing, schools and services – coupled with promises of improved housing, health and education facilities, and economic opportunities, ensured Aboriginal 'consent'. The bands 'agreed' on the condition that adequate housing would be built so everyone could move at the same time. The actual relocation took place in 1964.

The department appears to have taken two divergent approaches with the Gwa'Sala and 'Nakwaxda'xw. When the first relocation discussions took place in the early 1950s, the department put a stop to the process when the two sides could not agree on a location. A decade later, officials acted in a much more arbitrary fashion, deciding that the community was to be moved to Port Hardy, which was where they had wanted the people to go the first time.

Not unlike the experience of the Mi'kmaq in Nova Scotia, promises of housing and other amenities were not fulfilled. When 100 people arrived in

Tsulquate in 1964, only three houses were ready to be occupied, and 20 to 30 people were forced to cram into a single dwelling. Some families resorted to living on their boats. However, safe anchorage had not been provided, and many boats were soon damaged or destroyed. Furthermore, discrimination from surrounding non-Aboriginal communities was severe, limiting employment and other economic opportunities and counteracting the twin goals of assimilation and integration. As well, the original Kwakewlth residents resented the newcomers and the problems relocation was causing in their community. To keep people from leaving the depressed and unhealthy conditions and moving back to Smiths Inlet and Blunden Harbour, the government ordered the two abandoned communities burned down.

Robert Walkus, Sr. says the effect on people's health was immediate: "Right away people started drinking." Community cohesion was also affected. No longer did people work together in times of crisis, such as when someone's house caught fire. Tsulquate was not like Takush. "Today you have friends but the contact is not as close. You ride cars and pass by each other. You don't stop and talk for a long time."[104]

Over the following 10 years in Tsulquate, community social problems festered, manifested most poignantly in the welfare of its children. Some died, several spent years in and out of foster and group homes, and some were adopted by non-Aboriginal families and simply disappeared. Provincial child welfare workers essentially controlled the fate of children in Tsulquate. Evidence suggests that child abuse and neglect may well have continued to be a legacy of the relocation fully two decades after the move.

Shortly after the relocation, mortality rates increased, a phenomenon also recorded with the people of Hebron. Culhane found that 1964 and 1965 "were years of unusually high mortality". These figures "stand out in the data as having different characteristics than the years preceding 1964 or those following 1965". Infant mortality also remained high during the following decade. "Of the 111 births recorded, 20 or 18% died in infancy".[105] During the 1964-67 period, the 60-plus age group had the highest mortality rate, more than double that for the rest of the community, suggesting that neither the community itself nor the government services in the area were capable of providing adequate care for the elderly. Between 1975 and 1983, however, infant mortality declined to the Canadian average.

> In summary, the main demographic trends since relocation have been continued population growth due primarily to increasing numbers of women entering child-bearing age and a still high, though declining, birth rate...Overall, mortality, and particularly infant mortality, has declined significantly in numbers but the causes of death reflect both poor living conditions and a high degree of social stress.[106]

The relocation of the Gwa'Sala and 'Nakwaxda'xw has had effects noticeable to outsiders working with the communities:

The community's desire for their own education system was significantly impacted by the racist response of many in the local white community to the relocated band members. This response is well documented and was overwhelming for the bands.

The white community could easily see and focus on the many social problems in the Native community and so justify their racist attitudes without making any attempt to look at why this community was suffering from such problems.

The band's school-age children suffered from these negative attitudes in many ways. Their treatment by non-Native classmates, the lack of understanding or caring from some school staff, the frustration of the school staff that did care but felt overwhelmed by a problem created by the government and requiring remedies far beyond what the school could offer, resulted in failure....One very significant effect on the children was an almost total loss of self esteem. Their own community and culture were devastated. They had been thrust into an alien environment with which they had almost no previous contact, while simultaneously their family and community support systems had been removed.

The response of several families in the Native community and the band council was to begin working on establishing their own band-operated school. This began as a pre-school for four-year-old children. It started in 1969 and focused on better preparing the young children to succeed in the public schools.

Source: Eric Gilman, Mennonite Central Committee, RCAP transcripts, Vancouver, B.C., 2 June 1993.

Besides higher mortality, the move increased unemployment and the requirement for social assistance.

The relocatees had previously lived in culturally coherent communities. In Port Hardy, they became the minority and targets of racism.

> When I first moved here, I had a hard time working. We spoke our own language. We spoke Kwakwala. Our kids couldn't speak English. They spoke our own language. They had a hard time with these children from here at Port Hardy. Oh, we had quite a time. Every night I had to go through that...It was scary there. Kids were just doing things...I tried to stop them and they got angry, kids from Port

> Hardy. They set fire to my house because I tried to stop them. We took driftwood and blocked the bridge one time to try to keep them from coming over there. Port Hardy people would even come down here with guns and fire shots over top of the village from the other side of the river. We couldn't stop them.[107]

Robert Walkus, Sr. says roving white gangs used to try to fight the newcomers. And racism was not limited to the streets. He says a doctor attributed a gash on his knee to drinking and refused to treat it, saying, "If I fix your knee, you're just going to hurt it again."[108]

In 1983, in response to the high number of children removed from the communities by welfare authorities, the band council submitted a funding proposal entitled "Our Children's Rights: A Time for Action" to Indian affairs. The proposal called for a five-year plan for the delivery of community-based child welfare services. The submission demonstrated a commitment by the community to change. Nevertheless, despite several other band initiatives to develop the local economy, the success of such programs has been limited by continued problems of overcrowded housing and other social ills stemming from the relocation.

There have also been attempts by community members to reclaim their former communities, including the construction of a cabin at the 'Nakwaxda'xw village site at Blunden Harbour in 1991.

In summary, available research indicates that the people affected were not properly consulted about the move or given any indication of the kinds of problems they might encounter after moving from an isolated location to a more urban setting. "Granting the people some degree of decision-making power and collaborative input would have helped preserve their sense of self-esteem and lessened the degree of helplessness that they felt at having so much power taken out of their hands."[109]

The Mushuau Innu (Davis Inlet, Labrador)

> When we were first told we would be moved to the island, I didn't like the idea. I always thought we should have been settled on the mainland. But no one said anything. We just moved.[110]

The Innu (or Montagnais and Naskapi) live in several villages along the north shore of the St. Lawrence and in the interior of Quebec and in two communities in Labrador, Sheshatshiu and Utshimasits (Davis Inlet). For thousands of years, the Innu followed the caribou throughout the Ungava peninsula and moved to the coast to fish during the summer. The Mushuau Innu have one of the longest, albeit sporadic, records of contact with non-Aboriginal newcomers to North America[111] but managed to retain their independence because the interior of the region was relatively free from European influence. As the fur trade developed in

their homeland, however, the Innu entered into an interdependent relationship with the traders, a relationship in which traders held the balance of power by virtue of the commodities (guns, ammunition, etc.) they controlled.[112] While the Innu were incorporated in the fur trade, they continued to spend most of their time in the interior and came to the posts only to trade and visit. By the 1920s and '30s, however, the Mushuau Innu had come to rely on store-bought food from the coastal trading posts, where they spent an increasing amount of time. They

> were often in dire circumstances. The diversion of their traditional hunting efforts into fur-trapping for profit had made them particularly vulnerable to seasonal changes in the abundance of wildlife and in the 1920s government relief began to be provided. From time to time a shortage of caribou led to starvation among the Mushuau Innu who were equally vulnerable to disease. Reports also indicate that social problems existed amongst the Innu at that time, often resulting from the use of alcohol.[113]

A Hudson's Bay Company post was established at Old Davis Inlet in 1869. In 1927 it became the site of annual visits from a Catholic missionary, who handed out relief that people could obtain only during the short time he was in Davis Inlet. "The priest began to tell us when to come to Davis Inlet and where to go into the country."[114] The Innu came to be tied to the site by their annual trips to the mission and, in 1952, the mission became permanent. The priest organized construction of a sawmill and school, and the provincial government dropped off plywood for the Innu to build shacks.[115] Thus the development of an Innu community was gradual – from temporary mission to permanent mission and gradually to a ramshackle community with limited services.

Discussions about relocating the Innu appear in the records in the early 1930s and continue for a number of years.[116] We examine here two distinct relocations involving the Mushuau Innu. The first occurred in 1948, when Newfoundland authorities moved them from Old Davis Inlet, where they were more or less permanently settled, to Nutak, about 400 kilometres north on the Labrador coast. This relocation failed because the Innu simply walked back to Old Davis Inlet. The second relocation took place in the 1960s when the government was building houses for the Innu who had settled at Sheshatshiu. It was decided that houses would be constructed for the Mushuau Innu as well, but first they had to be moved from Old Davis Inlet, on the mainland, to a new community, Utshimasits – or New Davis Inlet – on Iluikoyak Island, about four kilometres away.[117]

From Old Davis Inlet to Nutak (1948)

In 1942, the Newfoundland authorities took over the money-losing Hudson's Bay Company trading post in Davis Inlet. The revenues of the post improved

for a time; three years later Northern Labrador Trading Operations, which ran the post, reportedly brought in $45,000 from the fur trade. By 1948, however, revenues had plunged to $3,000, and the Newfoundland government made plans to close the store and move the Innu north to Nutak.[118]

The Innu were taken to Nutak in the cargo hold of a boat; they were given tents, clothing and food at the new location. The surrounding area was devoid of trees, and conditions made hunting difficult, and although they had some success fishing for trout and cod, in general the Innu did not like the new location.[119] By the end of their second winter, the Innu decided to return to Davis Inlet by foot.

The Innu were not consulted about the move to Nutak. "I don't know what the government was up to moving us there," says Meneskuesh, an Utshimasits elder.[120] McRae says the Innu were moved so they would have employment, fishing and cutting wood. He says government officials were concerned that the caribou were disappearing. While the winter of 1948 had been hard and there had been some starvation, "the Innu do not recall that there was a particular shortage of animals in their hunting grounds near Davis Inlet or that the situation was dramatically different from previous years." Another reason, McRae says, is that officials at the time felt the Innu were becoming too dependent on relief. As well, if the idea had been to make fishers out of Aboriginal hunters, there was no need to relocate: that activity could have been carried out at Davis Inlet. According to McRae,

> the decision to relocate the Innu to Nutak was a consequence of the decision to close the government depot at Davis Inlet. It was a decision guided by a belief that the Innu should become economically productive and based on the administrative convenience of the location of the government depot.[121]

Thus, the reasons for this relocation resemble the reasons for the other relocations examined here: it was easier for government to have a group of Aboriginal people in another location. In the case of the Mushuau Innu, the situation in 1948 resembled what the Sayisi Dene would face a decade later: the closing of a trading post coinciding with concerns about a declining caribou population.

From Old Davis Inlet to New Davis Inlet (Utshimasits) on Iluikoyak Island (1967)

Throughout the 1950s government officials continued to discuss the possibility of resettling and amalgamating the Innu.[122] For example, around 1959, there was interest in combining the group at Old Davis Inlet with the Innu who had settled at Sheshatshiu, across the river from the community of North West River to the south. However, the move was opposed by the Catholic priest at Old Davis Inlet and by the people themselves, and the plan was eventually dropped.

Although the government had reopened its store at Old Davis Inlet in 1952, by the mid-1960s there was once again concern about its viability and there was discussion about moving to another location about 35 kilometres away. In the mid-1960s, the provincial government began a housing program for the Innu, "but it was concluded by government officials that the existing townsite was unsatisfactory".[123] Once more there was talk about moving the Innu to Sheshatshiu, but the local priest urged a move just a few kilometres away from the existing mission and community. Once the government learned that the church supported moving to a new site near the original settlement, Newfoundland officials committed themselves to the idea. Davis Inlet Elder Pinip describes what happened:

> The government officials called a meeting. They told us that very soon the Innu should move to a new location. This place (Old Davis) was too rocky, and there was no space for new houses, although there was plenty of water. But to hook up water from one house to another was very difficult. Besides, this place was too small for a new community. The government people told us that they were looking at different places for a new site. The chief and council (also appointed by the priest) were involved in looking for this site. The officials told us if the Innu thought it was a good idea, then they would go meet with the government in St. John's. They also said they were pretty sure the government would support the idea because none of the Innu had the houses yet. They said another meeting would be called for the Innu. The officials told us we needed a new community, and the store would be close by. The store was on the island. We needed a new wharf and school. They said the present school was too small and the population was growing. A few months later, the government agencies visited the community again. This time, it was agreed to move.[124]

Many Innu say they did not consent to the move and that the decision was made by the priest, government officials and the chief at the time. "There was no consultation and the question of approval or disapproval by them did not arise."[125] In a submission to the Canadian Human Rights Commission, the Assembly of First Nations argues that records show the decision to relocate the Innu "was made *prior* to any alleged 'vote' and that, if a vote did take place, it was not on whether the Innu should specifically move to their present location".[126]

> Some people say we just said yes to the white people about the move because we saw the houses that were built in old Davis Inlet, and we liked the house that was built for [Chief] Joe Rich. Some people thought the houses should be built at Sandy Brook where there was a river and fresh

> water, but others wouldn't listen. People were suffering. They didn't have enough food. Others didn't know what was happening.[127]

McRae says the Innu elders are "virtually unanimous" in their recollection that they received promises of new houses, running water, sewage, furnaces and some furniture.

> No one was really opposed to the move, and as they point out, in the light of what they were led to believe they were going to get at the new site, who could have disagreed with such a move?...The fact is that this was the uniform understanding of the Innu at that time, and for that reason they considered that they had no choice but to make the move.[128]

Housing construction was slow, however, and within a year many of the homes leaked. The houses had other problems as well:

> When Joachim Nui was working with the contractors building the houses, he realized that no basements were being constructed. He drew this to the attention of the foreman who told him that basements were to come later. Philip Rich also asked why basements were not being constructed and was told by the carpenters that water and sewage were going to come later.[129]

Moving the Innu to an island cut them off from their hunting grounds for part of the year. However, this was not an issue for the move planners.

> [B]ut even if the freeze-up and break-up issue had been considered, it would probably have been discarded, because the notion that the Innu would be encouraged to engage in fishing as an economic activity was very much alive. An attribute of the new site was seen to be that it was "not too far from fishing grounds."[130]

Following relocation the Innu were afflicted with a series of problems: poor health, chronic alcoholism, gas sniffing, domestic violence, terrible living conditions and high suicide rates. These problems, similar to those faced by the Sayisi Dene in Camp 10, continue to this day. Chief Katie Rich told this Commission:

> Last Friday, a few of the girls started sniffing gas, and during the early morning of Saturday, they broke every single window in the school. When they were asked why they were doing this, they said they just want to get out of the Davis. They wanted to go somewhere where they can live with water, with sewer, with better conditions.
>
> In the population of 168 adults, 123 are chronic alcoholics or abusers of alcohol. Ninety percent of all court cases in Davis Inlet are the result of alcohol abuse. We looked at how we ended up in

> Utshimasits, and what we had lost by settling there. What we lost mostly was control over our lives.
>
> Chief Katie Rich
> Mushuau Innu Band Council
> Sheshatshiu, Newfoundland and Labrador, 17 June 1992

For years, the Mushuau Innu have been trying to get the federal and provincial governments to realize that they made a mistake moving them to the island, where the social problems of the community have made international news. The Innu want to be relocated to a site at Sango Bay on the coast. The people's complaints have received considerable support, and McRae found their rights were infringed in the relocation to Nutak and to Iluikoyak Island.[131]

The Innu see relocation – this time as a community-planned and -directed initiative – as the only solution to these problems.

> It was the view of all people that in order to achieve a new and healthy life, we must relocate, to move away from this island to a place where there can be better health and living conditions, a place where we can deal with the problems facing us. Relocation is the first priority for us, and this time, it will be an Innu decision, not the decision of the government or the church.
>
> Chief Katie Rich
> Mushuau Innu Band Council
> Sheshatshiu, Newfoundland and Labrador, 17 June 1992

For the Innu, relocation is linked with other important aspects of cultural survival and self-determination. They have worked hard to get governments to listen and act. In February 1994, the federal government released a Statement of Political Commitments to the Mushuau Innu. The statement, signed by the federal ministers of Indian affairs, health, and justice and the solicitor general, recognizes that a comprehensive approach is needed to resolve the people's problems.

> The Statement commits the Government of Canada to both immediate action in the existing community and long term economic development plans for a relocated community. The Statement commits the government to focus relocation planning on the Innu's preferred site of Sango Bay...[132]

It also commits the government to provide emergency funding, negotiate self-government and a comprehensive land claim, fund development of more culturally sensitive police and justice systems, and give control over existing federal programs and funding to the Innu. The Innu accepted the government's proposal two months later. Since then the community has begun a series of studies of all aspects of the new village site. At the time of writing the studies were not yet complete. While technical and planning studies are carried out, the federal

government and the Innu are working to upgrade existing houses and buildings in Utshimasits. By March 1995, 11 new houses had been constructed and another 60 renovated. Sewer and water had been hooked up at three band facilities, and a women's centre and youth drop-in centre had been built.[133]

Conclusion

While the reasons for relocations are multifaceted and sometimes difficult to determine, an important element in those discussed so far was the desire to make the administrative operations of government easier. The six Aboriginal groups we looked at were relocated because, ultimately, governments had the desire and the power to move them. The official rationale was that relocation was in the best interests of the people themselves, but what lay behind these words was an overriding concern about the cost of administering programs – a long-time concern of officials dealing with Aboriginal people. Thus it was easier to provide services if Aboriginal people were centralized in one location. In some cases, centralization would have the additional benefit of exposing previously scattered, nomadic groups of people outside the mainstream economy to the discipline of wage labour and 'regular' employment. In this way officials who planned the relocations were part of a long line of administrators and others whose policies were designed to assimilate Aboriginal people for their own good. However, the assumptions behind these policies and practices led to numerous abuses of power.

In the next section we look at several relocations in which Aboriginal people were moved primarily because administrators sought to improve their lives in some way. This was often articulated as moving people for their own protection, as in the case of real or apprehended hunger or starvation. The assumptions, attitudes and practices behind these kinds of relocations were similar to those just examined.

2.2 To Improve the Lives of Aboriginal People

Encouraging self-sufficiency: dispersing the Baffin Island Inuit

Before the Second World War, northern administrators tried to ensure the Inuit remained on the land as self-sufficient hunters. In the 1920s, for example,

> The concern that Inuit policy not follow the same path as Indian policy, and that a reserve and dependency regime not be established, would influence Inuit affairs for more than three decades. The consequences would ultimately be disastrous, for not only was government prepared to ensure that Inuit policy not develop in the same way as Indian policy, it was also unwilling, for decades, to accept any active responsibility for Inuit welfare.[134]

Although the Supreme Court ruled in 1939 that the federal government had constitutional responsibility for Inuit, the federal government remained unwilling to accept active responsibility for Inuit welfare. By the end of the Second World War, however, "the government was torn between those who continued to advocate minimalist or residual approaches to dealing with welfare concerns and others who actively sought to intervene in the growing social and economic problems faced by Inuit."[135]

During the 1930s, policy toward Inuit remained concerned primarily with promoting 'self-sufficiency'. This was an administrative goal designed to keep Aboriginal people on the land as much as possible and thus off the relief rolls, since cutting costs was an important concern for a cash-strapped federal government during the Great depression. This history is discussed at some length in our report on the High Arctic relocation.[136]

The collapse of fur prices and the need to cut relief expenses led to what has been referred to as the "first official Eskimo relocation project" – the dispersal of Baffin Island Inuit to Devon Island, which took place over a period of 13 years between 1934 and 1947. This was a 'colonization project', implemented jointly by the Hudson's Bay Company (HBC) and the department of the interior (DI). The official reason for the relocation was to remove families from 'overpopulated' areas, where they were apparently experiencing hardship, to a 'virgin land' potentially rich in game.[137] The Inuit were told they could return home in two years if the project did not succeed.

Administrative and possibly sovereignty objectives also motivated the move, however: "[I]t was found desirable, in the interests of good administration, to transfer several Eskimo families to more congenial localities."[138] When the HBC asked to re-open posts at Arctic Bay and on Somerset Island in 1934, the government replied that a permit would be approved if it also agreed to open a post on Devon Island (at Dundas Harbour) and to relocate Inuit there. Thus Devon Island became a commercial resource experiment that provided a possible source of game for a small group of Inuit and furs for the HBC. For the government, sovereignty would be enhanced by 'effective occupation'.

> In addition to the placing of the Eskimos in new regions where game is more abundant and work more regular, there is the angle of occupation of the country, now that aerial routes, mineral developments, and other reasons make possible the claims of other countries to part of Canada's Arctic, which now reaches to the North Pole. To forestall any such future claims, the Dominion is occupying the Arctic islands to within nearly 700 miles of the North Pole.[139]

Fifty-three Inuit men, women and children and their possessions, including 109 dogs, sledges, kayaks, and boats, were picked up from the Pangnirtung, Pond Inlet, and Cape Dorset areas.[140] These 'volunteers' were to trap on Devon

Island for two years. Game resources on the island were excellent, and the hope was that a permanent settlement would be established. Owing to bad weather, however, including hurricane-force winds, poor ice conditions, and difficulties adjusting to the High Arctic environment, all Inuit opted to return to their homelands at the end of the two-year period. "The so-called 'experiment' to see whether the Inuit could make a living at this location was a disaster."[141]

Thus, in 1936, the Pangnirtung families were apparently moved home. The Cape Dorset and Pond Inlet families, however, were dismayed to discover that they were to be taken to Arctic Bay, where a trading post was to be re-opened. It had been decided they "would be better off" there. "This reason was used as a legitimizing motive for most relocations."[142]

Just a year later, they were relocated again, this time to Fort Ross, a settlement that was closed after 10 years because of unpredictable ice conditions which led to chronic supply problems. Here they subsisted almost entirely on tea, hardtack, flour, and other food that could be obtained from the store through trading furs. During this period, the Cape Dorset group expressed "an ardent desire" to be returned home. However, this desire was ignored. As we said in our report on the High Arctic relocation,

> The influence of local traders on the Inuit is evident from a 1943 report from Fort Ross. Hudson's Bay Company records state that in the spring of 1943, all of the 1934 relocatees had the "crazy idea" of going home to Cape Dorset. The post manager talked them out of this.[143]

The people were moved again in 1947, this time to Spence Bay where they and/or their descendants remain today. As we saw with the High Arctic relocation, the idea that they could return home if they didn't like the new location was key in getting the Inuit to agree to go in the first place. The failure of the government to keep its promises is a stark example of the arbitrary use of authority. Memories of the government's failure to keep its promises in 1934 later led the head of the RCMP in the region to promise those going to Resolute Bay and Grise Fiord that they could return if they were not happy.[144]

Richard Diubaldo paints a bleak picture of a trek that lasted more than a decade.

> Some of the original migrants were returned home after each port was closed; a number remained to eke out an existence in new, unfamiliar surroundings, attempting to live precariously, as their forefathers had.[145]

In his research study for the Commission, Alan Marcus says,

> The analogy of human pawns being moved on an Arctic chessboard is perhaps never more strikingly illustrated than in the instance of Devon Island, of relocation of a small group of Inuit to four new sites in succession, as it suited the experimental economic interests of the

> [Hudson's Bay] Company, and set against the background geopolitical interests of the State.[146]

For his part, Jenness said there should have been other considerations, namely,

> there were the desires and the aspirations of the Eskimos themselves to be considered, a factor that both the government and the Hudson's Bay Company largely neglected when they shuttled the south Baffin Islanders from one Arctic trapping ground to another.[147]

Removal and resettlement in the Arctic

The Devon Island relocations can be seen as the beginning of a long process of removal and resettlement in the Arctic. Historian Peter Clancy has called relocation "the last of the major pre-liberal policy thrusts", through which a distinctly "paternalistic inclination" can be seen.[148]

The Second World War, followed by the Cold War, precipitated major changes in the government's northern policies. The 1950s ushered in an era "in which the national government identified the northern territories as an object of policy meriting systematic attention."[149]

By this point, the government had become "committed not to the preservation but to the transformation" of Aboriginal society in the North.[150] In these years administrators became increasingly concerned with the northern 'problem'; in fact, they came to see the North as being in a state of crisis. Every year there were reports of Inuit starvation as the number of caribou across the North declined or migration patterns changed. Inuit were ravaged by epidemics and illnesses, especially tuberculosis, which were linked to undernourishment. The federal government mounted emergency airlifts and more frequent patrols, and provided more local medical care. But these were short-term responses; with the cost of relief rising every year, a more comprehensive solution was needed.

By the mid-1950s, the government had begun to define a long-term program of socio-economic development. The traditional hunting economy was seen as doomed. The only solution was to develop the North industrially (primarily through mining and petroleum exploration) and help the Aboriginal people of the region acquire the skills to participate in the wage economy.[151] As planning began for the High Arctic relocation, there was considerable debate within the department over the possible solutions to the "Eskimo problem".

In a long memorandum headed "The Future of the Canadian Eskimo", a federal administrator captured the view of many. Written in 1952, the year before the High Arctic relocation, the memorandum illustrates the prevailing administrative mindset at that time:

> Apparently some more intensive thought is to be given to the Eskimo. As citizens of an enlightened and moderately prosperous Canada they

> deserve greater attention. Their culture, being unique and interesting, deserves our sympathetic understanding. Their civilization, because it is without hope of advancement, should be ruthlessly discouraged.[152]

The anonymous official goes on to ask what can be done about the problem of finding meaningful work for Inuit when few technicians or artisans are needed in the North. The solution, for the author, was to move the people south.

> Migration towards the south will not produce a new civilization overnight. It is but a physical step but it could make possible the exposure, on a favourable terrain, of the Eskimo to the cultural benefits we can offer. The 8,500 Eskimo in one, two or three main settlements can be served education and medical attention. The 8,500 Eskimo strung out along 10,000 miles of Arctic bays cannot be served by all the resources the Government of Canada might choose to pour into this insatiable sieve.

The writer supposed that in "two or three generations under favourable conditions" Inuit would produce thousands of skilled workers for the southern economy. "There could be 1,000 Eskimo women at least making sausage casings in our packing plants alongside the new Canadians who do this job now. In this sort of a program there is a future." How the move should be carried out, the official does not say. However, he does identify one potential impediment:

> Indubitably a radical shift of the Eskimo would meet resistance. *It would be a ruthless infringement of his right to self-determination.* It would appear that this right is not to be taken lightly... [emphasis added]

The official goes on to compare the selfishness of this kind of self-determination with the desire of other Canadians to exercise their self-determination by not paying taxes or by being able to cross the street wherever they wish. "All must compromise for the common good. The Eskimo can not be excepted at the expense of priceless professional assistance and resources which can be used more efficiently and more hopefully under reasonable conditions."

This idea combines several of the elements already discussed. It assumes that the Inuit way of life is both quaint and doomed. It seeks to improve the lot of Inuit and give them useful skills. And at the same time, it offers a way of reducing the cost of services in the North. In conclusion the writer states that "a mass migration is not visualized"; instead, it would be better to create smaller settlements as an experiment.

Dated 15 May 1952, this document was in the files of a former deputy minister of the department of resources and development, which had responsibility for northern administration at the time. These suggestions did not become official government policy, but officials seriously considered variations on the

theme. Indeed, the large number of Inuit recuperating from tuberculosis and other diseases led to discussions about creating Inuit communities near Edmonton and Winnipeg.

By 1953, a classification system had been developed to guide policy makers. The system, which envisioned three types of situations, led to the conclusion that in some cases the only option for Inuit was relocation:

1. In areas where the natural resources would support the inhabitants, it was decided that their basic way of life was to be maintained.
2. In areas where permanent White settlements existed, the Inuit would be educated to adapt to this new situation.
3. In areas which could not continue to support the present population, attempts would be made to move the Inuit to areas with greater natural resources.[153]

These three scenarios treated relocation not as an end in itself, but as an element of economic development policy.[154]

Other Inuit relocations

Nueltin Lake (1949)

Dispersal – removing Aboriginal populations from the corrupting influence of non-Aboriginal communities – was designed to keep Inuit from relying on 'handouts'. When the Ahiarmiut of the central Keewatin were thought to be becoming too dependent on the largesse of personnel at a military radio station that had opened at Ennadai Lake in 1949, they were moved. Officials were worried about "subtle degeneration" and felt the solution was to move the Inuit to Nueltin Lake, 100 kilometres to the south-east. The relocatees were to work in a commercial fishery being set up in the new location. The Inuit didn't like the work and also found hunting poor in the region, so they drifted back to Ennadai Lake.

> A department report later revealed that consensual arrangements for the relocation were compromised by the fact that officials overlooked the need for an interpreter to explain to the Inuit why they were being moved and the nature of the work the company expected them to do.
>
> ...The department developed a plan and the Inuit acquiesced, not because they understood or agreed with the need for or aims of the experiment, but because they were doing what the Whites wanted them to do.[155]

Henik Lake (1957-58)

The Ahiarmiut who were relocated to Nueltin Lake but had returned to Ennadai Lake were moved again, this time to Henik Lake. Two reasons were given: the

caribou hunt had failed because the animals did not follow their customary migration paths; and there was "inadequate supervision of the hunting and trading operations of these natives" because they were too far from trading posts and administrative offices.[156] In May 1957, 59 Inuit and six dogs were flown to Henik Lake. The relocation was announced in a government press release that called Inuit "Canada's most primitive citizens" and referred to them as "settlers". The press release also called the relocatees "volunteers" and linked the move to the High Arctic relocation, which continued to be portrayed as a success.[157]

An official of the day reported that the Inuit were willing to move to Henik Lake, but there is some doubt about this.[158] In any event, a month after the move there were signs that all was not well at the new location. Three Inuit were arrested for breaking into a nearby mining camp, where they had been looking for food. Two were convicted and jailed for two months; the third was sentenced to time served and sent to Churchill for medical treatment. This removed from the community three of its hunters and placed a greater burden on the others to provide for the group.

In November 1957, another break-in was reported at the camp. The department blamed the Inuit for failing to adjust to their new circumstances, and a recommendation was made that the Ahiarmiut be relocated to Tavani, 145 kilometres up the coast from Eskimo Point, where there were "few vacant buildings thereby removing the temptation to commit theft".[159] RCMP officials also felt Tavani would permit closer supervision of the Inuit.

That winter, the main caribou herd in the region failed to appear. As conditions worsened for the Inuit, government officials debated why the relocation wasn't working. One wrote to his deputy minister that

> the recent move seems to have been from one depressed area to another. It was, however, from an area they [the Inuit] liked to one of which they had unhappy memories, and one which they themselves believed to be less rich. It had therefore little or no chance to succeed.[160]

Another official defended the economic development approach:

> Our entire policy of Arctic development must rest upon sound economic foundations. I think that it would be folly to encourage people to move to an area where we know there is not a solid economic basis for their future lives... We are not yet in a position to make any recommendations but unless you direct otherwise, we shall confine the possibilities to areas where we think that the people have a reasonable chance of making a future for themselves on the basis of adequate resources or other forms of income.[161]

On 12 February 1958, RCMP at Eskimo Point were informed that two Ahiarmiut had been murdered and six Inuit had died of malnutrition or exposure.

The surviving Inuit were evacuated by RCMP plane to Eskimo Point between 14 and 16 February. While the relocation was a disaster, the Ahiarmiut were not the only Inuit to die that winter. Nineteen people starved to death at Garry Lake and six more died at Chantrey Lake, events that resulted in quick action by the government to evacuate other Inuit in the region to settlements.

> The Ennadai Lake fiasco would sound the death knell of hasty relocation, no matter how well-meaning. After 1958, it was decided that Inuit would not be relocated in areas of poor transportation and communication; that Inuit relocation would be *within*, rather than *across*, natural Arctic areas...[162]

Rankin Inlet and Whale Cove

Following the Garry Lake famine, Inuit from the Keewatin interior were relocated to Rankin Inlet and Whale Cove. Inuit survivors were flown to Rankin Inlet to live in the "Keewatin Re-establishment Project" (Itivia). Other groups of extended families were also persuaded to relocate. However, many Inuit had difficulty adjusting to what was primarily a Euro-Canadian way of life, and some insisted on returning home. In 1959 a few of these families were persuaded to relocate again from Itivia to Whale Cove, where they were encouraged to live from hunting, fishing and whaling.

Banks Island

Another relocation carried out in the early 1950s had some of the hallmarks of the Devon Island move a generation earlier. For many years, Inuit from the western Arctic travelled to hunt on Banks Island in September and returned home the following summer. High prices for commodities and low fur prices forced the trappers to remain on the mainland in 1948.[163] In 1951-52, the department advanced credit to 15 families of hunters to encourage them to establish a permanent community on the island.[164]

The government had several motives: there was concern about the decline of Mackenzie delta resources now that those who formerly hunted on Banks were staying on the mainland; and the Arctic islands had become strategic in the Cold War defence thinking of the day. "In order to assert Canadian sovereignty the resettlement of Banks Island on a more permanent basis was desired."[165] Thus the relocation achieved the dual purpose of colonizing an unoccupied island and improving "the participants' standard of living by eliminating their dependence on relief and encouraging them to be self-supporting."[166]

Baffin Island Centralization

Throughout the 1950s and '60s, Baffin Island Inuit were relocated from numerous seasonal camps to 13 permanent hamlets. The official rationale for these

moves was the government's concern about the perceived inability of Inuit to sustain themselves on the land. Hence, the government wished to extend and centralize its services to Inuit.

> Some [groups] were surviving only marginally; some were in apparent crisis. This perception is shared in part by those Inuit who remember the 1950s and early 1960s. Others deny that the situation was critical but moved in order to receive government benefits; a very small number of families refused to resettle.[167]

Once again, a declining caribou population was part of the motivation for relocation. As well, many hunters lost their dogs to an outbreak of encephalitis, leaving them without a means of transportation, and this had a major impact on hunting.

> That time they didn't have any dogs, no skidoos, all the dogs died from some kind of disease. I wondered why there were so many men sad, staying in the tents all the time. I remembered them being out all the time, before. My mother told me that they had lost their only means of hunting. No dogs.[168]

Hunger, starvation, the need for improved health care, and provision of other services, such as education and housing, were cited by government as reasons for settling the Baffin Island Inuit. Billson also suggests that sovereignty was a motive.

> If the claim of Arctic sovereignty was *not* the hidden purpose behind resettlement, then why, some Inuit ask, did the government not choose to fly in healthy dogs from uninfected areas? Others claim some dogs were brought in, but not enough to make a difference.

One person Billson interviewed said,

> I remember the government bringing people into this community. It didn't bother me at that time, but now I think they didn't have to do that. They did fly in some dogs from other communities in the high Arctic or Igloolik and Pond Inlet. But they *still* brought the people into the communities after that.[169]

Following resettlement, the Baffin Island Inuit faced a host of problems that are by now familiar: dramatic changes in their way of life, family and community structure; the loss of economic livelihood and the swift establishment of welfare dependency; increased family violence and other social problems. Billson's conclusion can be applied to other relocations carried out to 'benefit' Aboriginal people:

> ...even humanitarian zeal must be tempered with respect for indigenous values and beliefs; and most importantly, change must be

> brought about with the full participation of those who will most immediately be affected by it.[170]

Relocating Inuit to the south

Earlier we referred to discussions within government concerning the merits of moving Inuit to the south. This idea gained currency in part because of concern that the large number of Inuit in southern hospitals would be unable to readjust to conditions in the North once they recovered from illness. In the eyes of northern administrators, the severe health problems experienced by many Inuit in the 1950s only exacerbated the problems the people faced. With the collapse of the price of fur, new economic opportunities had to be created. But the Inuit – nomadic northern hunters – had few marketable skills. A recent study on Inuit relocation observes that

> alternative employment possibilities, and access to medical and educational facilities were predicated on another social objective: integrating or assimilating Inuit with the dominant Canadian culture. For some, assimilation was the key to solving the welfare and medical problems. For others, the medical and welfare problems provided an opportunity to achieve assimilation.[171]

Here again, we see prevailing attitudes influence the formation of policy with respect to Inuit. As in the case of policy for First Nations people, assimilation of Inuit into Euro-Canadian society had become a predominant policy theme by the 1950s. The Inuit way of life was perceived as being on the road to extinction. Assimilation – through a settled life with all the benefits offered by the burgeoning welfare state, not the least of which was wage labour – was in the Inuit's best interests.

At a May 1956 meeting of the Eskimo Affairs Committee, a body set up in 1952 to guide policy across the government, there was a lengthy discussion concerning relocating Inuit to the south. Options discussed ranged from establishing small numbers of Inuit already in the south, to bringing out small numbers from the North to southern communities, to moving large numbers. When the point was raised that the Inuit already in the south wanted to go home, one participant replied that changing their minds was merely a matter of education.[172]

A subcommittee was set up to look at southern relocation on an experimental basis. A year later it reported that such resettlement was both feasible and desirable. The scope of the project had also expanded from a plan to rehabilitate Inuit already in southern sanatoria and hospitals to a large-scale relocation program.[173]

> The Arctic was creating a surplus population which available resources could not support and "the fact had to be faced that a traditional

> relationship with their physical environment had ceased to exist." A strange and confusing paradox existed in the mid 1950s, as the same planners were also supporting and pushing ahead with northern relocation on shaky and questionable assumptions.[174]

While the planners acknowledged that the Inuit, as Canadian citizens, had the right to live anywhere they wished, much more thought went into how the Inuit could be persuaded to move to particular locations selected by administrators. The main theme of this discussion, and many other documents on relocation at the time, was that the Inuit could eventually be coaxed out of the North.

A number of locations were suggested for the southern settlements, including Edmonton and Hamilton, but the Dynevor Indian Hospital at Selkirk, Manitoba, was chosen for the experiment. Nothing came of the plan, however, and it was shelved.

> What is important about the plan is that, with hindsight, it is indicative of the lengths to which those well-meaning civil servants, responsible for the handling of Inuit affairs, would go in their attempts to find solutions to the "Eskimo problem." Whether such a plan would have worked is a moot point, given the Inuit tie to the land, but it was only one in a series of attempts to "do something."[175]

Tester and Kulchyski cite another possible reason for the plan's failure: officials knew the Inuit would not have gone along with it. Many Inuit in southern hospitals were unhappy and wanted to return home:

> The few copies of their letters that remain in archival files testify eloquently to this. One letter reads: "I have come to the whiteman's land because I thought it would be nice here, but sometimes I am very unhappy here...when one doesn't belong to this land it is not very pleasant." Another Inuk writes: "I am worrying about my home. I want to go home so badly that I don't care, don't give a hoot, if I'm not quite cured so please speak to the doctor...I want to stay here no longer; I am really fed up...While I am here it is awful in this lousy white-man's land." This attitude can be understood as one form of implicit resistance and opposition to government policy, a resistance to what might have become a strategically valuable tool in the government's arsenal of assimilationist policies: southern "integration centres."[176]

At the same time as officials were planning to move the Inuit south, there was considerable discussion about expanding relocations into the High Arctic. Since the relocations to Grise Fiord and Resolute Bay were seen to be "resounding successes",[177] plans were made to emulate the moves on a scale comparable to that being contemplated for moves to the south.

A committee was set up, and it was decided not to take the kind of risk involved in the first High Arctic relocations, when people were moved even though officials had no studies to determine the availability and numbers of game. Instead, as noted earlier, future relocations would take place within regions.

In 1958, after discussing some of the problems associated with relocation, the committee made three recommendations that would apply to all Inuit relocations across the Arctic:

1. no Eskimos be relocated in areas of poor transportation and communication;
2. Eskimo relocation would generally be within rather than across natural Arctic areas such as northwest Quebec, Keewatin, and western Arctic; and
3. that the priority for resource studies be Keewatin, East Coast of Hudson Bay, Tuktoyaktuk-Coppermine, and North Baffin Island.[178]

A systematic survey of these areas was not undertaken, but the idea of relocation to the High Arctic continued to live on in the department.

By 1960, the economic benefits of relocation were being linked to the issue of Canadian sovereignty over oil and gas reserves in the Arctic. In November of that year, a senior administrator wrote a long memorandum analyzing the High Arctic relocations and providing policy advice on further such moves.

> My understanding is that you would prefer that any new colonies be established in the vicinity of existing weather stations such as Mould Bay, Isachsen and Eureka [situated at 80° north on Ellesmere Island]. I am in general agreement with this principle. However, I think that many Eskimos will want to make a livelihood from the country for some time to come, provided of course the resources are available. Therefore, I do not think we should eliminate entirely in any study the setting up of communities away from established stations. What would be a more progressive step, during this transition period, is to take advantage of modern technology and improved communications...[179]

In the end, however, no new communities were created around the weather stations.

Conclusion

The fact that no additional systematic relocations resulted from all this discussion is significant, but so is the fact that the discussions were held in the first place. As we saw in the case of the relocation of Inuit from northern Quebec and Baffin Island to the High Arctic in 1953 and 1955, government officials

considered the movement of Inuit to be for their own good and well within the officials' administrative mandate. The idea that government administrators could help better the lot of Inuit was influenced largely by individual and institutional attitudes toward Aboriginal people. By the 1970s, however, attitudes were beginning to change, influenced no doubt by the increasing politicization of Inuit, which came about in part because of the many problems attending Inuit resettlements in preceding decades. Additionally, several studies commissioned in the late 1960s and early '70s concluded that relocation to sites where Inuit could get employment had not worked.[180]

3. Development Relocation

Turning to the second category of relocation, associated with the concept of 'development', we should recognize that, in one way or another, non-Aboriginal people have been 'developing' North America since their ancestors first arrived on these shores. All too often Aboriginal people were seen to be in the way of these developments and were either physically removed or forced to migrate. Whereas the rationale for administrative relocation was often the interests of Aboriginal people or government administrators, development relocation is carried out 'in the public interest'. And because the public interest prevails, Aboriginal people are relegated to secondary status. Material benefits to the larger society, through the expansion of agriculture, urban development, mineral exploitation and hydroelectric power generation, required the sacrifice of the interests and rights of Aboriginal people.

In the last century the expanding colonial (later Canadian) frontier was linked to agricultural settlement. 'Unused' or 'waste' land was put under the plough. Aboriginal people were forced to move, to reserves or wherever else they might be able to make a living. After 1900, Aboriginal lands outside the agricultural belt came to be seen as storehouses of potential wealth. All across the mid-north of Canada, rivers were dammed and diverted, artificial lakes created and ancestral lands flooded. In the name of development and the public interest, Aboriginal communities were relocated and dispossessed. Here we examine a number of these moves.

Our selection of cases is meant to give an understanding of the historical roots of this form of relocation, as well as its effects. For that reason we begin with a short discussion of the Saugeen Ojibwa surrenders in the 1830s in Ontario; the relocation of the Songhees from Victoria in 1911; and the relocation of the Métis of Ste. Madeleine, Manitoba, in the late 1930s. These examples help build an understanding of the assumptions and approaches behind these administrative practices and provide the basis for examining two more recent development relocations – the Cheslatta T'en of British Columbia and the Chemawawin Cree of Manitoba.

3.1 The Saugeen and the Bruce Peninsula

Before Confederation, British colonial administrators were negotiating the relocation of communities to make way for agricultural or urban development, with several surprisingly familiar rationales.

The *Royal Proclamation of 1763* recognized that Aboriginal people had control over their lands and stated clearly that any land acquired must be purchased by the Crown if the people "should be inclined to dispose of the said Lands".[181] However, a principle expressed by the Legislative Assembly of Canada in the 1840s maintained that any "unsettled" area could not be considered land owned by Aboriginal people and, when it was needed by others (Europeans) for development (in this case farming), "they were lawfully entitled to take possession of it and settle it with Colonies."[182]

As early as the 1830s, Governor General Francis Bond Head expounded the paternalistic notion that Aboriginal people in southern Ontario needed to be protected from the "white man's vices" and would be able to preserve their traditions and way of life only if they were removed to an isolated area away from the influence of European settlers.[183] Head used this rationale to justify the 1836 surrender of 600,000 hectares of land south of Owen Sound and the relocation of the Newash and Saugeen bands to the Saugeen (later called the Bruce) Peninsula. Head promised the government would build proper houses for the relocated Ojibwa and that the peninsula would be protected from further encroachment of European settlers forever. In fact, however, the next surrender and forced relocation of the Saugeen Ojibwa was only 20 years later, when the Newash band was forced to give up its village and reserve of 4,000 hectares to make way for the expansion of Owen Sound.

The 1836 surrender treaty was contested by a number of chiefs and Wesleyan missionaries because several head chiefs had not signed it and no compensation was given. Ten years after the surrender, the Saugeens were 400 pounds in debt to traders and were often hungry, because extensive commercial fishing by Europeans had depleted fish stocks off the Saugeen Peninsula. Fish had been the mainstay of their diet before the relocation. After pressure from the chiefs and a powerful (but short-lived) lobby group in Britain, the Aboriginal Protection Society, the colonial government agreed in 1846 to give compensation but not to reverse the surrender.[184]

Further surrenders of Saugeen land (Half Mile Strip, 1851, 4,800 acres; Newash Reserve, 1857, 10,000 acres; Colpoy Bay, 1861, 6,000 acres; and others after Confederation) pushed the Ojibwa onto smaller and smaller parcels of land.[185]

After each surrender and relocation the Saugeen built new houses and sawmills and cleared land for farms, only to be pushed off again by European settlement, in some cases with Europeans taking over their fields and sawmills. With each surrender, negotiations were more difficult. In 1857, the superintendent of

Indian affairs, L. Oliphant, met individually with those in debt, who had a weak claim, or who feared non-Aboriginal encroachment and obtained individual signatures of surrender.[186] Oliphant also promised that "they would all be able to ride in carriages, roll in wealth and fare sumptuously everyday".[187]

Finally, the Saugeen Ojibwa were forced onto the Cape Croker reserve. "At Cape Croker, where land was unfit for cultivation, they were not disturbed."[188]

3.2 Getting the Songhees Out of the Way (1911)

The site of present-day Victoria, British Columbia, had been an Aboriginal trading location long before the Hudson's Bay Company recognized the advantages of building a post there in the 1840s. The way the company and its agents treated the Aboriginal people of the region was very much a product of the attitudes of the time.

> Since the imperial authorities knew little about the natives of Vancouver Island, Indian policy was largely dictated by the Hudson's Bay Company in general and by the laissez-faire policy of Chief Factor James Douglas in particular. Furthermore, by 1849, British administrators had developed a policy which recognized aboriginal possession and therefore the extinguishment of Indian title had to precede actual settlement. The Vancouver Island treaties exemplified this policy.[189]

James Douglas, who would become the company's chief factor in British Columbia and later the colonial governor, began constructing a trading post at Victoria in 1843, on land that belonged to the Songhees, a Coast Salish people. Just what the Songhees thought at the time is the subject of speculation. However, one account states they were "pleased to learn that Douglas proposed to erect a trading post among them and lent him all possible aid." Douglas lent the local people axes to help construct the fort, on the understanding that they would be returned when the work was finished.[190] By this time the coastal peoples were well acquainted with European trade goods, the ships that brought them, and the odd customs of the people who sailed them.

In 1849 Douglas was appointed chief factor and given responsibility for opening up the island to settlement "in accordance with the terms of the Crown's Grant of Vancouver Island to the Company."[191] Between 1850 and 1854, Douglas negotiated 14 treaties with Aboriginal peoples. A treaty with the Songhees was signed on 30 April 1850. In return for surrendering title to a large tract of land, "our village sites and enclosed fields are to be kept for our own use, for the use of our children, and for those who may follow after us...". The Songhees also remained "at liberty to hunt over the unoccupied lands, and to carry on our fisheries as formerly." They received 75 pounds sterling in payment.[192]

As settlement increased, the balance of power shifted away from the Aboriginal peoples of the region:

> This shift came about largely as a result of the imposition of a reserve policy and the unabashed expression of ethnocentric attitudes. Over the decade economic interdependence declined and anti-Indian sentiment increased.[193]

After the treaties were signed, Douglas's policy was to protect Aboriginal land from encroachment. When settlers tried to buy a portion of the reserve, he put a notice in a local newspaper advising that the reserve was Crown land and the occupants could not dispose of it.[194] There was also pressure to remove the Songhees from what had become, by the end of the 1850s, a valuable piece of real estate.

> In February 1859, the residence of the Indians on this reserve having become obnoxious to the inhabitants of Victoria, by that time grown into a town of considerable importance, and the land included in the reserve having greatly increased in value, and being much desired for building sites, and especially as affording extended frontage on the harbour, the Legislative Council of Vancouver Island presented an Address to Sir James Douglas...enquiring whether the Government had power to remove the Indians from this reserve, and suggesting that if this could be done, the land so held under reservation should be sold and the proceeds devoted to the improvement of the town and harbour of Victoria.[195]

Douglas replied that such a removal was unjustified. As well, agreements had been signed to lease some of the reserve land. Revenues were to go to the benefit of the Songhees. This arrangement lasted until Douglas retired as governor in 1864 and the leases were cancelled. The cancellation led to a long series of negotiations to remove the Songhees. A decade later, a government official reported that it was very difficult to find suitable replacement land.[196]

In 1910 agreement was finally reached between the governments of Canada and British Columbia to relocate the Songhees and their reserve to land near Esquimalt, away from the harbour. Legislation confirming the agreement was passed in Parliament the following year. Under the act, the British Columbia government agreed to pay each family head $10,000 and to determine the value of schools, houses, the church and other amenities and divide that amount equally among the heads of households. It also agreed to move the people, as well as "the dead and their monuments", which were to be reburied on the new reserve.[197]

Immediately after the bill passed third reading, debate began on amendments to the *Indian Act* designed to ease the transfer of reserves and removal of Aboriginal populations. In the words of interior minister Frank Oliver,

> Several provisions are considered desirable owing to the changed conditions resultant from pressure of population. The Indian reserves throughout the country have been selected, one may say, with very good judgment; the reserves are probably the choice locations in the Dominion of Canada from one end to the other. Consequently, with the increase of population and increase of value of land, there necessarily comes some clash of interest between the Indian and the white man.

After pointing out that the purpose of the *Indian Act* and the Indian department was to protect Aboriginal people, the minister continued, somewhat tortuously,

> it is not right that the requirements of the expansion of white settlement should be ignored...that the right of the Indian should be allowed to become a wrong to the white man. Certain provisions of this Bill are made with a view, as far as possible, to protect the rights of the Indians and still protect the public interest, which, as the House is well aware, sometimes clashes to a certain degree with the rights of the Indian as set out in the Indian Act.

Conservative opposition leader Robert Borden asked Oliver whether the amendments conflicted with "any contract" between Indians and the Crown or "any treaty rights secured to the Indians during the period since this country was first settled." He was told:

> [I]t has been an established principle that, in the case of a railway, as the public interest is supposed to demand its construction, private rights must give way to the public interest. And it has been held – and is a matter of law and administration that the Indian right stands in the same position as a private right of other parties and must give way to the public interest...[198]

The minister linked the amendments to the Songhees relocation which was, he said, "a very exceptional case, and under exceptional conditions." What was needed was

> a statutory provision having the sanction of parliament, that would adequately protect the material interests of the Indians, and at the same time would protect the interests and the welfare of the white community residing adjacent to an Indian reserve....It does not seem that the condition existing in regard to the Songhees reserve should be repeated. We wish to prevent it...[199]

Rather than each specific Indian surrender having to be debated in Parliament, the Liberal amendments created a general law to cover all future cases. Authority was transferred from Parliament to the superintendent general

of Indian affairs to bring cases before the Court of the Exchequer, where "a decision may be given as to whether the Indians should be transferred from that reserve to some other locality."[200]

The main opposition came from Borden, who would be prime minister a few months later and whose government would inherit responsibility for Indian affairs. He said the amendments were

> a very extreme step and one altogether out of the path of tradition so far as the Canadian government is concerned. For the past two hundred years, it is our boast that the British government has scrupulously observed its contracts and treaties with the Indians, and the Indian has learned to know that he can look forward at all times with confidence to the sacred fulfilment of any treaty he makes with the British Crown. It may be that the necessities arising out of the growth of this country, especially in the west should justify parliament in taking the extreme step now proposed, but I do not believe that this parliament or this government has any warrant to go about it in the wholesale way proposed by this Bill. The breaking of treaties with the Indians of this country – because you cannot put it lower than that – is a thing that should not be entered on with precipitation.... On the contrary your purpose is to create a procedure and a practice by which every one of these treaties can, without the future sanction of parliament, be departed from without any effective means being afforded the Indians to oppose the carrying out of any particular project in any particular instance...[201]

Individual cases should continue to be brought before Parliament, Borden argued. Another member feared the government was asking for powers that were "altogether too arbitrary." G.H. Bradbury of Selkirk, Manitoba, was also concerned that the amendments departed from the principles of the *Indian Act*, which required surrenders to have the consent of a majority of the male members of a band.[202] Others said they were sure that the superintendent general would look out for the Indians.

The amendments were intended initially to apply to non-Aboriginal communities with populations of 10,000 or more. However, some members complained that the number was arbitrary and that communities of fewer people occasionally had a greater need for adjacent Aboriginal land. Oliver quickly agreed to lower the threshold to 8,000.

This debate is instructive because it demonstrates the conflict between the principles enshrined in treaties and the demands of an increasing non-Aboriginal population. The Songhees may have had treaty entitlement to their land, but the fact that they were merely occupying it, as opposed to 'improving' it and thus increasing its value – or worse, occupying property whose value was increasing

despite their presence – gave the government the arguments it needed to bring in rules that enhanced its 'flexibility' in dealing with Aboriginal people.

An interesting footnote to this debate came when, just before the amendment was passed, the minister of the interior was asked which cities the government planned to apply the amendments to. He replied, "the city we have in mind is Vancouver....There is a reserve in Vancouver that only differs in degree from the case of the Songhees reserve in Victoria." When asked whether there had been requests from other cities similar to that of Victoria, Oliver said, "I do not think there is any other case that is nearly so extreme as in these two cities".[203]

Thus the superintendent general was given the power to remove Aboriginal people from their land and their homes in the interests of non-Aboriginal society. Most of the members of Parliament who debated the bill agreed with its objective, although some had concerns about details in the amendments. Such powers were used repeatedly to facilitate development relocation.

3.3 The Métis of Ste. Madeleine and the *Prairie Farm Rehabilitation Act* (1935)

'Necessity' also led to the relocation of the Métis community of Ste. Madeleine in the late 1930s. The Métis people lost their land because it was designated under the *Prairie Farm Rehabilitation Act* (PFRA), passed by Parliament in 1935 to try to solve the problem of drought and serious soil erosion across the prairies. The act was not aimed at any one group; rather, it was part of a large-scale agricultural scheme. However, the combination of the legislation and the situation of the Métis people of Ste. Madeleine resulted in their relocation and dispossession at the same time as other non-Aboriginal prairie farmers were given new land.

Ste. Madeleine was settled at the turn of the century by Métis homesteaders who had left the Red River Settlement in 1870 or returned to Manitoba following the conflict of 1885. Between 1915 and 1935 the community grew to about 250 people. Many of the residents worked as itinerant labourers on neighbouring farms.

Ken and Victoria Zeilig interviewed a number of elders from the community. They write that the Métis people retained a strong bond with Ste. Madeleine, a bond still present nearly half a century after relocation.

> Although it was never articulated, the implied bond was homeland. This was where the Metis people could be themselves, away from the backbreaking labour on white farms, menial jobs on the fringes of town society, and ever-present discrimination. As one old-time resident in nearby St. Lazare [said], "They were good servants!" In Ste. Madeleine, though, the people were masters of their own fate; they were subservient to no one; they served themselves.[204]

The legislation that resulted in the Métis of Ste. Madeleine being relocated was not designed for that purpose. The PFRA was intended to be a solution to what agriculturalists saw as a chronic problem: too many prairie farms were working too much marginal soil. The result, especially during the 1930s drought, was accelerated erosion and soil loss. The solution was to seed this land as pasture in order to retain moisture in the soil. A land survey was carried out, and Ste. Madeleine was designated as an area to be converted from marginal farmland to pasture land.

When new pastures were created, official policy was "to resettle farmers on lands that are located close to existing or proposed pastures, permitting them to take advantage of these grazing facilities." People were not moved if at all possible.[205]

Under the act, people were entitled to full compensation provided their tax payments on their land were up to date – a problem for many Métis people who eked out a living working for other farmers. Better land would be offered in exchange, and families would be given assistance to relocate. If they had not paid taxes, under the law, the Métis people were

> squatters on their land, and were forced to move without compensation. Their houses were burned, their church was dismantled, and by 1938, the once vital community of Ste. Madeleine had virtually vanished.[206]

Many of the Métis people interviewed about the move say they were told about the relocation by local municipal officials, not representatives of the federal government. Many cannot remember whether federal officials even came to talk to them. Lena Fleury said the people were given little explanation other than that the land "was going to become a pasture. They [are] going to put cattle in there."[207]

Since little has been written about this relocation, we think it important to describe its effects, especially in the words of the Métis people who were relocated. Lazare Fouillard remembers that in the 1930s the Métis people were hungry, even starving. His father was on relief. However, his memories of the relocation were bitter:

> They burned their houses. But then, you know why they burned the houses. That was the dirtiest part of the '30s when they did that. Everybody wanted jobs. They wanted the PFRA to bring jobs in....The people around here. They wanted jobs.[208]

Fouillard says the Métis people were considered second-class citizens at the time, and there was a feeling that they could be pushed around. "Oh, I think there was that element that they said, 'Let's get them bloody Breeds out of there and have some work. Let's give them a few bucks and chase them out of there'."[209]

Once the Métis of Ste. Madeleine were evicted, few had a place to go. Louis Pelletier says he went back to the community and found ashes where his house once stood.

The Oujé-Bougoumou Cree of Quebec

The Oujé-Bougoumou Cree of Quebec have been moved seven times since 1927. The latest move, after much lobbying and struggle, is into a new community 750 kilometres north of Montreal – a community the Cree designed themselves.

The first relocation occurred in 1927, when a mining company began drilling and destroyed some homes in the process. "In 1936, a federal Indian agent falsely declared the Chibougamau people to be 'strays' of the Mistissini Crees, 100 kilometres to the north." Indian affairs merged the two groups "on paper, in order to open up the region to exploration". In 1950 blasting near the present town of Chibougamau "drove the Cree to neighbouring Hamel Island." That winter, work crews drilled from the lake ice and cut trees on the island to extract sand for roads. "That spring the rest of the island washed away, and the Crees resettled at Swampy Point – the worst camping spot in the entire area, but the only one not yet staked by a mining company."

In 1962 the Cree moved to a peninsula at Lac Doré, 15 kilometres from Chibougamau. Despite promises of reserve status, when a mining company said it needed sand from Lac Doré in 1970, "Indian Affairs officials revived the fiction that the group belonged at Mistissini. They ordered people to move and had the village bulldozed."

Between 1974 and 1989, the people dispersed and lived in a number of different camps and communities. In 1989, the Cree finally moved into the new community of Oujé-Bougoumou on Lac Opemisca, which was recently declared by the United Nations as one of 50 model villages in the world.

Source: John Goddard, "In From the Cold", *Canadian Geographic* 114/4 (July/August 1994), pp. 38-47. See also Volume 2, Chapter 4, Lands and Resources.

> Every house was down after everybody moved out. Of course, there was nothing in them. Houses were no good, I guess. They might as well be burned. But we were supposed to get the same kind of house we left behind....All I got was $25. Some got $100; some got maybe $200 or $300. I don't know. Some probably got quite a bit.[210]

While the PFRA did not single out Métis lands, the fact that the Métis people were considered squatters, combined with the desperate conditions everywhere on the prairies in the 1930s, appears to have ensured that, once removed from their land, they were given little thought. The community drifted apart, and people resettled where they could. Ste. Madeleine continued to have a hold on them, however.

The relocation of the Métis people of Ste. Madeleine fits the pattern of development relocation in two fundamental ways: Aboriginal land was needed for another purpose (pasture in this case), and the people on it were in the way. Little thought was given to the implications of the move for the community or its long-term effects. In this respect there is an element of arbitrariness in the actions that displaced the Métis residents of Ste. Madeleine.

3.4 The Cheslatta T'en and the Kemano Hydro Project

Dam construction is one of the most common reasons for population transfer. The Three Gorges dam complex on the Yangtze River in China, the Sardar Sarovar dam on India's Narmada River, and projects in Brazil are examples that affect indigenous societies in the name of the public good. In Canada, dam construction has been a key to development strategies implemented throughout the mid-north since the Second World War. Some, such as the Churchill Falls project in Labrador and the Talston River Hydroelectric System in the Northwest Territories, flooded Aboriginal lands and radically altered or destroyed the people's economy in the affected area.

The Cheslatta T'en are Carrier people from north-central British Columbia whose way of life was altered drastically by flood waters from Alcan's Kemano hydroelectric project, built on the Fraser River watershed in the early 1950s. The dam was designed to supply power for the company's aluminum smelter at Kitimat.

For centuries the Cheslatta T'en hunted, fished and trapped in the Nechako River area at the headwaters of the Fraser River. Long before contact with Europeans, they fished for trout, char, kokanee and whitefish in the freshwater lakes and traded with neighbouring villages for sockeye and chinook salmon. In later years many Cheslatta people had large vegetable gardens and herds of cattle and horses for which they grew fields of timothy and clover. Some worked for local sawmills or ranchers and ran traplines to earn cash to buy supplies they could not produce themselves.

The community members who testified to the Commission have told their story many times before. Elders told us that before their relocation, Cheslatta people were self-sufficient and had little need for or contact with the department of Indian affairs. Chief Marvin Charlie told us:

> They never needed any government handout or any...of those things. They were well self-sufficient until 1952....Most of the people there made their living on traplines, hunting, fishing and things like that. We never had any government chief or government councillors...
>
> Chief Marvin Charlie
> Cheslatta Carrier Nation
> Vancouver, British Columbia, 15 November 1993

In the years after the Second World War, there was a great demand for aluminum and the enormous amounts of hydroelectric power required to smelt it. Studies on the potential of northern British Columbia were completed by 1949, and the Aluminum Company of Canada (Alcan) was given water rights to the Nechako River and enthusiastic provincial and federal government support to build the largest sloping, rock-filled clay-core dam in the world.[211]

Alcan's Kenney dam was built in the Nechako Canyon area in 1952 and, over the next four years, created a 92,000-hectare reservoir out of what had been a series of lakes and rivers. A 16-kilometre tunnel was drilled through Mt. Dubose near the coast to carry diverted water to the new powerhouse at Kemano. Normal water flow was reversed, and the water level of Lake Tahtsa, 250 kilometres away, was raised by 5.5 metres. The budget for this industrial megaproject was $500 million dollars ($2 billion in 1992 dollars).[212]

Approximately 200 Cheslatta people lived in four main villages on 17 reserves around the Cheslatta River and Cheslatta Lake. Although the Cheslatta Lake system was not originally part of the Alcan project, in 1951 the federal department of fisheries demanded that the company provide an additional reserve of cooling waters for the upper Nechako to minimize the risk to salmon in the Nadina and Stuart tributaries. By summer of that year Alcan and the fisheries department had chosen a site for a small dam across the Cheslatta River that would raise the level of Cheslatta Lake. Alcan also had plans for a spillway for excess water further upstream, which was not built until 1953. The Skins spillway would discharge water periodically down the Cheslatta River, through Cheslatta Lake, Murray Lake and Cheslatta Falls, to the Nechako River, causing further flooding and erosion of Cheslatta lands. For Alcan's project timetable it was important to complete the Murray dam over the Cheslatta River before the spring run-off of 1952. The addition of the spillway and dam on the Nechako watershed were to have devastating effects on the lives of the Cheslatta.

The Murray dam across the Cheslatta River was constructed, and it was closed on 8 April 1952, three months before Alcan formally received a water licence to permit this step.[213] When the dam was closed, the water began to rise over Cheslatta lands. Negotiations for the surrender of Cheslatta lands to the federal government started on 19 April 1952 and lasted three days. On the fourth day, the Cheslatta began to move out.

The Cheslatta surrendered 2,600 acres, or 1,053 hectares, of land (known as reserves 1, 2, 5, 7, 9, 10, 11, 12, 13 and 16), to be sold to Alcan by the federal government as part of the flooding area. Cheslatta elders claim the first notice they received of their imminent relocation was a helicopter visit from the Indian agent on April 3, when he informed them that their villages were going to be flooded and they would have to move. The agent used this meeting with about 15 band members to 'elect' a chief and council and set the date for surrender meetings two weeks later. In a letter to his superiors in Ottawa, the agent said

the election was carried out under the authority of the *Indian Act* and that he had discussed the process with the band members present.[214]

Most of the Cheslatta people gathered at Belgatse (Reserve 5 on the north shore of Cheslatta Lake) for this meeting with officials from the department of Indian affairs, but a number were out on traplines. Although officials had hoped to relocate the people while the ice was still solid, spring thaw made both lakes and major highways impassable during the weeks before and after the surrender.

Department of Indian affairs documents indicate that the Cheslatta people at Belgatse asked for $108,000 in compensation as well as additional compensation for traplines, a monthly pension, land and buildings to be purchased for the band before they moved, and a road to be built into reserves not surrendered. DIA officials called these demands "fantastic and unreasonable" and presented their own offer based on valuations of the land and improvements (excluding traplines) that had been made by Alcan and DIA without consultation with band members. The offer was substantially less than what was being offered to non-Aboriginal settlers and trappers in the area and "was flatly refused in no uncertain terms."[215] After several days of heated negotiations, the surrender was concluded.

According to band researcher Mike Robertson, the Cheslatta were never told it was their right to say 'no' to the surrender and were never offered a third-party adviser. Although Alcan officials advised DIA during the negotiations that the water was not rising as fast as expected and an immediate relocation was no longer necessary, DIA decided they wanted to complete the relocation then, because the Cheslatta "would be even harder to deal with" if it was delayed.[216]

The Cheslatta people claim that individual compensation agreements and other surrender documents that came out of this meeting were forged by Indian affairs officials. The surrender promised a total compensation of $130,000, "provided that this amount is sufficient to re-establish our Band elsewhere to our satisfaction on a comparable basis. The total cost of our moving and re-establishment to be borne by the Aluminum Company of Canada."[217] A non-Aboriginal resident of Cheslatta Lake at the same time received $12,802 for 32 acres and a small cabin – five times the amount per acre given to the Cheslatta.[218]

Indian affairs records show the Cheslatta voted unanimously to surrender their lands. However, the Cheslatta claim they did not assent to the surrender, the chief and band council had no authority because they had not been elected by a majority, and signatures on the resolution were forged.[219]

The department issued cheques totalling $3,500 to cover removal expenses but did not assist physically in the relocation or provide land or housing at the other end. The relocation began April 22 in the middle of a difficult spring thaw. The local Indian agent wrote to his superiors that it was

> practically impossible for the Indians on no. 5 and no. 7 reserves to move their belongings to Ootsa or Grassy Plains by team sleigh and wagons under the present conditions.[220]

With only two weeks' notice the Cheslatta were forced to leave their homes of many generations. After the officials flew out by helicopter, families with old people, children, horses and cattle had to travel overland to Grassy Plains, 30 miles to the north, through mud and slush, leaving most of their belongings behind.

In the summer of 1952 the Cheslatta lived in overcrowded tents at a temporary location in Grassy Plains. They were not given any of the compensation moneys, or land or housing. Band members had no money and were concerned they could not grow gardens or hay for the winter ahead. Although the local Indian agent had chosen farms for their re-establishment in May,[221] it was September before the first families moved onto their new properties. When band members finally received individual compensation cheques in the summer of 1953, they were required to pay for their new land and all improvements on it. According to Robertson, this was contrary to the surrender documents, which, the Cheslatta believed, called for them to be paid for the complete re-establishment of band members.[222]

Chief Marvin Charlie told us he was eight years old when the Cheslatta were relocated. He remembers that summer in tents very clearly:

> Due to wet weather and wet bedding, some of our people got TB, and some of them died from TB. I was one of the victims who was ill from TB, and stayed in a hospital for five years, two years in Prince Rupert and two years in Vancouver, and had my lungs cut out of me.
>
> Chief Marvin Charlie
> Cheslatta Carrier Nation
> Vancouver, British Columbia, 15 November 1993

Thomas Peters wrote the department of veterans affairs in August 1952:

> All...I am is broke, I have got lots of children and I want a pension. I hope you make it all my trapline is flooded under water for the Aluminum company.[223]

Conditions were so bad that local residents at Grassy Plains and Burns Lake voiced their concerns to the federal government. In July the president of the Burns Lake Board of Trade cabled the minister of citizenship and immigration:

> Indians at present without homes and no hay for livestock. Imperative immediate action be taken to resettle these people who have been without homes since April. Due to tremendous unrest we urge you to give this matter your immediate attention.[224]

Meanwhile, having acquired from the government the rights it needed, Alcan proceeded with construction of the dam. This involved clearing the area, and workers therefore demolished buildings and equipment left on the reserves. In April the local Indian agent suggested to his superiors that they ask Alcan to

use its tractors and personnel to assist in moving possessions. When he visited the site in July he asked workers to delay demolishing buildings until the Cheslatta could return to get their belongings. At the same time he asked them to remove the stained glass windows, bell and other fixtures from the church and ship them to Vanderhoof. Indian affairs superiors never acted on the agent's suggestion to ask Alcan for help moving Cheslatta possessions, despite their obvious ability and willingness to move and ship the delicate fixtures of the church.[225] The work continued, and the Cheslatta villages were bulldozed and burned before most families could return for their belongings.

The Cheslatta T'en claim they were promised that any graves that would be flooded would be moved to higher ground but were told that most would not be affected by rising waters. Alcan states that it understood that the Cheslatta had agreed to the flooding of the gravesites, provided two recent graves were moved and commemorative markers were placed above the flood waters. In accordance with that understanding, workers moved the two graves and gathered the other grave markers from Reserves 7 and 5 and burned them, placing the ashes of the markers under aluminum plaques that read:

> This monument was erected in 1952 to the memory of the Indian men, women and children of the Cheslatta band, laid to rest in the cemetery on Reservation Five (Seven), now under water. MAY THEY REST IN PEACE.[226]

The graveyard at Reserve 9 was considered above the flood level. However, when the Skins spillway was opened for the first time in 1957, water surged through it. Many graves were washed away, and coffins and skeletal remains were allegedly found in and around Cheslatta Lake through the summer. Two Cheslatta men wrote a letter to Indian affairs on 6 June 1957.

> Just a few lines to say that we have seen for ourselves the graveyard that used to be at Cheslatta no. 9 reserve. It is all gone and we do not know where the dead have gone. We went to Cheslatta June 4 at 4:00. All the dead have floated away and have gone ashore anywhere...Bill Clark of Cheslatta seen a coffin floating in the middle of the lake on May 1.[227]

Chief Marvin Charlie told this Commission 35 years later of the Cheslatta understanding of what had been promised:

> One of the things that really hurt my people is a graveyard on No. 9. The Alcan Aluminum Company promised my people that this particular graveyard was never going to be touched by water because it was so far away from the lake, and my people agreed with that. In 1957 the Alcan Aluminum Company opened the gate of the spillway at Skins Lake which is above Cheslatta Lake, and the water found

> its way down to Cheslatta and washed away the whole graveyard. Some of our Elders walked along the river banks, hoping to find the bodies of their loved ones. There were coffins floating around, grave houses floating around. That particular part really hurt my people and placed a deep scar in the people's hearts.
>
> Chief Marvin Charlie
> Cheslatta Carrier Nation
> Vancouver, British Columbia, 15 November 1993

Alcan states that, though flooding was not expected at the graveyard at Reserve 9, no promises were made to the people. The Cheslatta T'en state the graveyards were flooded at least twice a year for 40 years until 1992. In the early summer of that year, as part of the Cheslatta redevelopment project, the graves at Reserves 5 and 7 were cleaned, crosses and gravehouses rebuilt, and the graveyard reconsecrated with the knowledge and good wishes of the minister of Indian affairs. The reconsecration service took place on 28 June 1992. In the third week of July, the fisheries department directed Alcan to discharge water through the Skins spillway that again flooded the graveyards and washed the new gravehouses and crosses into the lake.[228]

Alcan states that the Cheslatta "had full knowledge that these areas would again be flooded, as they are each year". Alcan says it warned the Cheslatta that it could not "cease the flow of cooling water through the Murray/Cheslatta system" until another release facility was built that would send water directly to the Nechako River.[229] As noted, the spillway provides cooling water for the salmon fishery as required by the federal fisheries department as well as carrying excess water from above the main dam.

The Cheslatta who were relocated to Grassy Plains in 1952 lost their traplines, their hunting grounds and their way of life. After the first terrible summer, they were resettled on marginal farms scattered over a large area. Cheslatta researcher Mike Robertson says it became a 280-kilometre round trip to visit all the Cheslatta families who had once lived in close-knit communities around Cheslatta Lakes.

> Now people were faced with building livable houses to replace the shacks now occupying the lands. They had to build new barns for their livestock, new fences. All paid for out of their own pockets. DIA offered no assistance....They were now regulated on where to hunt, when to fish....Their language was useless in this new world. People became depressed.[230]

Besides deaths from tuberculosis, there were deaths from alcoholism, suicide and car accidents. Chief Marvin Charlie explains:

> Those people who loved the way of life in the woods have committed suicide because they couldn't trap anymore. Alcoholism took place.

> Within one year our people, numbering 140 – within one year we lost six people due to alcoholism. Two of them committed suicide; two of them were shot; and two of them have been run over by a car.
>
> Chief Marvin Charlie
> Cheslatta Carrier Nation
> Vancouver, British Columbia, 15 November 1993

Relocation also destroyed the people's self-sufficiency. Charlie says when he became chief in 1990, 95 per cent of the Cheslatta were on welfare.

The relocation sites were not turned into federal reserve land until 1964, and in the 12 years after the surrender, the Cheslatta did not qualify for Indian affairs assistance with health problems, education or housing. Requests to the Indian agent to replace housing, equipment and livestock were ignored or refused because the Cheslatta lived off-reserve.[231]

In 1984 the Cheslatta faced a new threat. Alcan applied to the B.C. Utilities Commission for permission to build Kemano II, a new hydro project that would use more than 85 per cent of the water of the Nechako River. In 1987, the federal and provincial governments reached an agreement on a smaller Kemano Completion project. The agreement allowed the project to proceed without an environmental impact assessment, despite strong protest from environmental groups and Aboriginal communities, including the Cheslatta T'en. After years of public controversy about the effects of the project on water flows and fish in the Nechako watershed, the government in British Columbia reviewed the proposal. In January 1995 it rejected the project and asked the federal government to reverse its 1987 decision to give Alcan water rights to almost all the water flow in the Nechako.

The threat of a new Kemano project galvanized the Cheslatta Carrier Nation into filing a specific claim with the department of Indian affairs in 1984. Nine years later, in March 1993, following delays, rejection, court action and revisions, the Cheslatta accepted $7.4 million from the government as a settlement for inadequate compensation during their surrender and relocation in 1952.[232]

It is difficult to summarize the sufferings of the Cheslatta following the surrender of their lands and relocation. They claim not to have consented to either; in fact, surrender seems to have been extracted under duress, even though flooding was not imminent and the band could have taken more time to consider, negotiate and relocate. The band chief and council were elected, without a majority of band members present, at the meeting where the relocation was announced – two weeks before the surrender meetings.

The Cheslatta claim they did not agree to the surrender and that signatures on DIA documents are forged.

> The Cheslatta people allege that surrenders were obtained by the federal government by means of duress and in an unconscionable manner.

> If the surrenders were tainted by such action, then the surrenders could well be deemed void *ab initio* [from the beginning] and the federal government might be held accountable in a court of law.[233]

As we have recounted, the Cheslatta were treated as an afterthought, with completely inadequate regard for their rights. The government initiated the surrender negotiations just as the dam was completed and flooding was about to begin. The flooding began before the surrender. The families were told to start moving without assistance the day after the surrender was signed. Because of the spring thaw they had to leave most of their belongings behind. The homes and many belongings of the Cheslatta were destroyed before most families could move their effects to the new location. There was no housing or land provided for families or livestock at Grassy Plains for the entire summer. When land was finally purchased for the Cheslatta, moneys were taken from individual compensation allotments to pay for it – contrary to the Cheslatta understanding of the surrender agreement. The new lands were not established as reserve lands, and the rights the Cheslatta had enjoyed as a result of living on reserves were lost for many years. Graveyards above the planned flood level were washed away. Adequate compensation was not given until the settlement of a specific claim in 1993.

Commissioners were shocked by this story. It seems to us highly unlikely that the government's arbitrary actions and abuses of power recounted by the Cheslatta would have taken place had the affected individuals been non-Aboriginal. This is a profoundly disturbing thought.

3.5 The Chemawawin Cree and the Grand Rapids Dam

The Grand Rapids hydroelectric development, which began in the late 1950s, resulted in the flooding of more than 1,200 square kilometres of delta land on the Saskatchewan River, including 2,800 hectares of Cree land belonging to the Chemawawin (Cedar Lake), Moose Lake, and The Pas bands. Before the flood, the Cree and Métis peoples of the region had an economy based on hunting and the procurement of furs for trade. Moose, deer and waterfowl were abundant. They also fished and worked occasionally for wages to supplement their incomes. The northern Manitoba Cree were part of Treaty 5, signed in 1875, partly to allow non-Aboriginal people further access to Lake Winnipeg and its tributaries, including the Saskatchewan River. Treaty 5, like the other numbered treaties, was prepared in advance and taken to the Cree for ratification. There was little real negotiation. A treaty commissioner, Thomas Howard, even resisted the desire of the Chemawawin to negotiate as a separate band.

> After forcing them to travel to The Pas to sign the treaty, Howard decided to treat with them and the Moose Lake Indians as a single band, with only one chief and set of headmen, and hence only one

> set of treaty payments for these officials. Treaty Five was to be inexpensive as well as quick. Howard's attempts to actually have the Chemawawin Indians relocate to Moose Lake were unsuccessful.[234]

After the treaty was signed, the Cree returned to their homes and ignored the fact that the treaty commissioner had amalgamated them. Although the Chemawawin reserve was surveyed in 1882, it was not registered until 1930. For decades the Cree remained on the land, harvesting the natural resources of their area.

In 1941, the Hudson's Bay Company closed its post at Chemawawin. An independent trader quickly moved in to fill the void. This trader acted as a broker with outside authorities, as well as doctor and law enforcement agent. He exercised considerable political control because he dominated communication with the outside world. When Indian affairs wanted to contact the community, it went through the trader, bypassing the band council:

> When the provincial government and Manitoba Hydro first approached the community about their plans for the Grand Rapids Dam, they found a community with little experience at governing their affairs at the local level and with virtually no experience in dealing with the government. Their last major decision had been made some seventy-five years earlier when they signed on to Treaty Five. When the trader was excluded from the hydro negotiations, the people were without their patriarch, their mentor, their broker. They were on their own.[235]

Discussion about building a dam at Grand Rapids began around 1953. Built to provide power to the International Nickel Company (INCO) operation in Thompson, Manitoba, Grand Rapids was one in a series of hydro developments build in northern Manitoba between 1925 and 1965.

The potential effects of flooding the land were recognized by the provincial government long before plans to build the dam were announced. Waldram cites a 1955 provincial report that stated,

> The threat of this development faces the federal and provincial Administrations with serious problems with those whose economy is directly linked with the area. These problems should be studied immediately and steps taken to find new employment for these people.[236]

Reports from the early 1960s confirm that the local economy was viable and that welfare rates were low and employment levels were high. Social problems were practically unknown. The trader described the community in the following terms:

> When I was there, there was no trouble at all. I could leave my door open and go and eat and come back. Nobody would disturb any-

> thing...They were always good people when I was with them. There was no trouble at all.[237]

A report for the Grand Rapids Forebay Administration Committee, a body of senior public servants set up by the Manitoba government to deal with all aspects of the project and relocation, concurred:

> A visit to Cedar Lake gives one the impression of a well managed settlement. The grounds around the post are very neat and the grass is kept cut...The people of the settlement are rather content. Other than anxiety over the impending move, there are no apparent community problems.[238]

Conditions were similar for the people of Moose Lake, another community affected by the flooding, which experienced a sharp decrease in moose and wildfowl hunting after the flood, as well as a decline in the muskrat harvest.[239]

In 1959, the Manitoba government set up the Grand Rapids Forebay Administration Committee. Despite the fact that the Committee's "*raison d'être* was the relocation and subsequent well-being of the Native people in the Cedar Lake region, the committee proved unable to successfully fulfil its mandate, or incapable of it".[240] The committee was composed of already busy senior civil servants, but no members of the Chemawawin – or any other Aboriginal – community. Its decisions were made in isolation in Winnipeg. The next year, the Cree and Métis peoples at Chemawawin received a letter of intent informing them that they were to be relocated from their traditional settlement because of planned flooding. The relocation would take place by 1964.[241]

Communications – vital if the people were to make an informed decision – were mired in bureaucracy:

> At any given moment, a directive from the Manitoba government had to be relayed through the Forebay Committee to the community where it was received by the Indian Superintendent, the Community Development Officer, or the local trader. The communication was then offered to the band council and the local flood committee, who in turn informed the people. There was little actual contact between members of the Forebay Committee and the people of Chemawawin or their representatives.[242]

The Cree were at a disadvantage. Since they had had few formal dealings with government since signing the treaty, few band members spoke English, and they had no familiarity with the type of formal and complex negotiations that would precede the relocation. In fact, they were even unable to get an interpreter in meetings with government officials:

> The framework in which the negotiations were conducted was not only one of marked inequality, where the legal advice, the technical

> expertise and the language of communication were all firmly loaded in favour of the provincial government [and] Manitoba Hydro, but also one where the conclusion was never in doubt.[243]

The province took the lead in negotiations, despite the treaty relationship between the Chemawawin Cree and the government of Canada. Discussions had already taken place between the department of Indian affairs and provincial officials before the Cree learned they were to be moved. The negotiation process dealt first with the land surrender and then the compensation package. Since the federal government had the power under the *Indian Act* to negotiate with a band and then transfer the land to a province, or expropriate the land outright, the department

> held the "trump card" in the transaction, and was in a position to ensure that the rights of the people were protected. It is apparent, however, that in most respects the Indian affairs Branch abandoned its responsibility and allowed the Manitoba government to control the negotiation and surrender process.[244]

The federal government helped Manitoba Hydro officials reinforce the message that if the Cree did not move, they would be evicted.[245] The government took this position even though it was aware of the economic consequences of the move and its representatives had concerns about the attitudes of Manitoba officials. A federal official quoted a provincial counterpart as saying "that it would be up to the people to figure out their own future and if this could not be done, the people would have to go on relief."[246]

Waldram, who offers a comprehensive account of this and other western Canadian hydroelectric projects, has stated that the most controversial part of the Chemawawin relocation is the letter of intent, or Forebay Agreement, because "this document has all the ingredients, and elicits all of the emotions, of the treaties signed generations earlier."

Since reserve land was to be flooded, the Manitoba government had to obtain the land from the federal government. Indian affairs suggested that

> a 'package' of commitments be prepared and presented to the Indians for their consideration. While retaining the right to ultimately consent to this package, and in effect the terms of the surrender, Indian affairs essentially abdicated its responsibility to negotiate on behalf of the band, and instructed the Manitoba government, through the Forebay Committee, to negotiate directly with the people of Chemawawin.[247]

Negotiations began in the spring of 1962 and were conducted orally at first. The Cree considered these oral discussions promises, just as similar discussions with nineteenth century treaty commissions had been interpreted. The letter of intent was sent to the band in April 1962. It was reviewed by the chief, revised,

and accepted through a band council resolution in June. The federal order in council authorizing the relocation and land transfer was passed in November.

However, as soon as the resolution was passed, the community began expressing concerns about the agreement. The people wrote to the Forebay Committee and asked for clarification of a number of points, including one concerning the provision of electricity to their new community.

> We feel that this letter [the letter of intent] is similar to a Treaty. We cannot accept what we do not think is right, as it is not we who will suffer for our mistake, but our children and our children's children.[248]

In 1964, as relocation neared, the band asked the department of Indian affairs to intervene on their behalf in negotiations.[249] The department refused. A month before the move, the band produced a new list of grievances "to be dealt with before relocation."[250] The people met with the Forebay Committee and were assured all their concerns would be dealt with – but not before the move.

> Given the fact that many of these issues did remain unresolved for many years, and some issues are still not resolved, the decision to move over to the Easterville site instead of holding out for firmer commitments proved to be a mistake.[251]

Many of the problems facing the Cree were caused by the ambiguous language of the letter of intent. The language was intended to be simple but proved to be open-ended. Among other things, it provided for new homes, schools, building materials, dock facilities, a "semi-modern" nursing station, roads, recreation and economic development opportunities, including the continuation of hunting, fishing and trapping activities.[252]

Many of the subsequent problems facing the Cree in their new location can also be traced to the fact that they had no legal representation when they were negotiating. Waldram states (but does not provide more detail) that there is evidence the issue was discussed by government officials, but in the end they decided not to provide legal counsel to the Cree. Without legal assistance, the Chemawawin were at a distinct disadvantage. Indeed, despite the negotiations, records indicate that the Chemawawin reserve was expropriated and transferred to the province.

> Unorthodox, yet apparently legal, the direct transfer of Indian land to the province through expropriation underscores both Manitoba's pressing need for resolution of the issue and the federal government's willingness to expedite the matter on behalf of the province.[253]

Although the people of Chemawawin were told they could choose the site of their new village, the decision was actually made for them. The Manitoba government and the Forebay Committee selected the location and named it Easterville, after Chemawawin Chief Donald Easter. An internal memorandum

details the approach. First, Manitoba and Forebay officials examined aerial photographs. Their task was to narrow the choice to four potential sites (two each for the Chemawawin and Moose Lake bands). These would be

> turned over to a firm of town planning consultants who would examine them in the light of their specialized knowledge, and would endeavour *to sell the Indians on one or the other of these sites*, and have the Indians choose the one which they regarded as preferable.[254]

As noted earlier, there were no Indian or Métis community representatives on the Forebay Committee. Local committees were established but they had no decision-making powers. Rather, it was the 'senior' committee that drafted the letter of intent. There is some dispute over the number of potential sites eventually presented, but the Chemawawin Cree have always felt that Manitoba Hydro and provincial officials pressured them to select Easterville.[255] Waldram indicates that planning for the relocation to Easterville was under way even before the people formally accepted it.[256]

The Chemawawin residents did elect a committee, made up of Cree and Métis representatives, that visited various sites with Manitoba Hydro representatives. However, these visits occurred in the winter, when land and resources were difficult to evaluate. Easterville was chosen because of its proximity to the town of Grand Rapids and a promise that a road would be built to the new site. As well, the site provided easier access to promised electric power generated by the dam. However, residents felt they were pressured to accept the Easterville site quickly by Hydro personnel, who were responsible for implementing the relocation and wanted an agreement as soon as possible. A report prepared in 1966 noted that the province failed to respond effectively to a range of proposals emanating from the people of Chemawawin. Instead, officials attempted to limit "the demands of those affected by the flooding".[257] Rather than engaging in a more vigorous negotiation that would seek an equivalent land resource base, the Cree were persuaded to agree to an inferior site in exchange for vague promises of future socio-economic development – promises that have yet to be fulfilled more than a quarter of a century later.[258]

A few years after the move, an Easterville resident described the process:

> First of all there was a group of surveyors came and worked around Easterville, and all of a sudden a man called Mr. Wells came along and held meetings saying Chemuhowin is going to be flooded and you got to move out of here because this place is going to be flooded. All I know is that we had three places to go and this is where we came, to Easterville.[259]

It has been suggested that the Cree were unable to comprehend the scale of the changes about to occur as a result of the hydro development, and this kept

them from pursuing other more suitable sites more vigorously.[260] While it might be argued that the Cree were marginalized in this process, it should also be noted that the band council resolution detailed a number of conditions the Cree wanted met. This indicates that the community quickly came to understand the implications of the impending move. Indian affairs, Manitoba Hydro and the provincial government were well aware of the magnitude of the change in the area's resource base that would result from the proposed dam. The 1966 report noted the failure to prepare adequately for "the human adjustment aspects of a public power project".[261]

At the same time as the Chemawawin Cree were relocated, a decision was made to move the people of Moose Lake to higher ground because there was no suitable alternative location. The fact that the Moose Lake people, at a new site close to their former village, would need something to live on was not lost on some of the government officials of the day.

> It can only be assumed that many of the resources from which the people have derived a livelihood in the past and will need to derive a livelihood from in the future, will be lost or seriously depleted for a number of years and in some cases, possibly for ever.[262]

This assessment was not provided to the Cree. In fact, they were told the opposite. Manitoba officials were quoted as saying that economic opportunities would improve after the relocation. "The people were denied accurate information about the effects, and were simply asked to trust the Manitoba government."[263]

Walter Mink, a Chemawawin community resident, explains what the Cree were being told:

> What I understand, the promises were too good, because at that time we never used a light. We used to use gas lamps. Wood stoves. That's all we used to use over there [at Chemawawin]. And now, those promises. They said, "You gonna have a highway there, and everybody will have a car. And whenever you want to go somewhere, your car sitting there, you go where you want to go. And a stove like that [points]. You're going to have an electric stove. A coffee-pot, and things like that. You're not going to have to use any wood. No wood stoves." So that's what I said. The promises were too good, I guess. We never seen anything like this before [motions around kitchen]. "You're going to live in a town, a nice town. You're going to have your own store." These are what the promises were. "Everything you need you're going to have. You're going to live in a town."[264]

Indeed, the Cree did get a new town. Residents built their own houses, and work on the new community was completed by 1964, the year the actual relocation took place. The new settlement for the Chemawawin was located "on the

shores of the newly enlarged Cedar Lake, a lake now filled with the debris caused by hydro flooding and with very substantially reduced fishing opportunities".[265] Unfortunately, the area was rocky and turned out to be poor for hunting, trapping and gardening. Thin topsoil prevented the establishment of proper sanitation facilities, and health problems soon followed. As a result of these and other negative social effects, entire families moved away from Easterville in 1966.

Easterville has been described as "a social catastrophe",[266] a community characterized by welfare dependency, health problems, economic disaster, pervasive alcohol abuse and cultural deterioration. A 1965 survey by Indian affairs documents the change in the Cree's resource base caused by the flooding. It shows a dramatic decline in wildlife harvesting by the community in just four years (see Table 11.2).

The consequences of the move were immediate and dramatic. The social fabric of the community was altered. The system of sharing and looking out for each other declined. Cash transactions, even for wild meat, became the norm.[267] While no one died in the actual relocation, Landa concluded that the majority of accidental deaths following the relocation were attributable to alcohol "or alcohol substitutes".

> [T]he family structure is breaking down in Easterville. Parents report lack of control over the behaviour of young children and adolescents; separation of spouses is reported; and cases of severe child neglect due to the use of alcohol for long periods is also one of the main com-

TABLE 11.2
Cree Wildlife Harvesting, Before and After Relocation

Species	1960-61	1964-65
Moose	291	22
Deer	57	0
Caribou	35	5
Ducks	6,565	207
Geese	1,463	62
Other	822	50
Fish	103,025	7,000

Note: Fish recorded in pounds, other species by number.

Source: Martin Loney, "The Construction of Dependency: The Case of the Grand Rapids Hydro Project", *The Canadian Journal of Native Studies* VII/1 (1987), p. 68.

> plaints of local informants and health officials as well. Little comparative data exists for these problems at Chemuhowin, but informants state definitely that these problems have steadily increased since the relocation in 1964.[268]

The official responsible for planning the townsite of Easterville has been quoted as saying that he could see the "'tragedy' which overtook the Chemawawin 'coming'" before the relocation took place.[269] In 1966, the federal-provincial co-ordinating committee on Indian and Native affairs noted that steps could have been taken to limit the effects of the relocation on the Cree, but that the province ignored proposals from the Chemawawin.[270]

The relocation created a dependence on government that did not exist before the people were moved. According to Loney, this was "a direct and inevitable consequence of the destruction of their economic base by the Province of Manitoba and by Manitoba Hydro with the acquiescence of the Government of Canada."[271]

4. The Effects of Relocation

This chapter has so far examined the assumptions and policy rationales behind a number of relocation and centralization initiatives and the effects of those moves on the people involved. These effects are noticed whether the relocation was for development or administrative purposes. In some cases it is difficult to separate the effects of relocation from those of other events and changes – many of which were also the result of government policies. Nevertheless, we have also seen cases where relocation has been a major contributing factor in declining health, reduced economic opportunities, increased dependence on government and cultural disintegration. Besides the work done in Canada, there is a large body of international research on the implications and effects of relocation. This section looks at some of the general effects of relocation.

4.1 The Relationship to the Land, Environment and Culture

> For Indigenous peoples' continued existence – throughout the world – land is a prerequisite. It is essential because Indigenous peoples are inextricably related to land: it sustains our spirits and bodies; it determines how our societies develop and operate based on available environmental and natural resources; and our socialization and governance flow from this intimate relationship. Because of this intimate relationship, the land is rendered inalienable: it is a natural right, a right essential for the continued vitality of the physical, spiritual,

> socio-economic and political life and survival of the Indigenous peoples for generations to come.[272]

There are many examples of relocation severing – either on purpose or by accident – the relationship just described by Clem Chartier. Anthropologist Robert Williamson told the Commission that the Inuit attachment to their habitat "is as strong as the attachment of kinship. It is a love of a very profound kind."[273] This feeling was echoed repeatedly in our hearings on the High Arctic relocation, but it also applies to the other relocations in this chapter.

"For the hunting-life bred person, the whole habitat is significant, and intimate familiarity with it is vital, reassuring, and metaphysically validated."[274] Isolating people from their habitat breaks a spiritual relationship and compounds subsequent cultural, social, political, economic and health problems. The intensity of the people/place relationship and the severity of the consequences of separation is powerfully conveyed by an Inuk interviewed by Williamson, who defined *nuna* (the land) as "my life; *nuna* is my body".[275]

In some relocations, what relocatees lack in their new environments is the culturally based knowledge that made them self-sufficient in their homelands. The importance of this cultural knowledge is highlighted in the Inuit relocation to Devon Island. Marcus describes how, without an intimate knowledge of the land (a "memoryscape"), the Inuit were reluctant to break trails over unknown territory. They refused to establish traplines beyond walking distance from the camps, and the greater number of hours of darkness affected the trappers as well. To solve the problem, the non-Aboriginal Hudson's Bay Company trader accompanied the trappers on all their expeditions across the coast of Devon Island, believing that his presence in some way mediated the Inuit's "own particular sphere of fear and superstition."[276]

Cultural knowledge that is intimately connected with a physical homeland is associated with a kind of confidence that is lost when a people is relocated away from that homeland. For example, Emery defines the "problem of the relocation" of the Gwa'Sala and 'Nakwaxda'xw to Tsulquate as one in which people were wrenched from their traditional lands and, consequently, from their traditional way of dealing with things.[277] A people's confidence develops over the generations when their relationship with the land is "as close as your breath". This confidence was fractured by the alienation of the Gwa'Sala and 'Nakwaxda'xw from their homelands and scattered beyond recognition by promises and commitments not kept, hopes and expectations not fulfilled. Elders likely felt responsible for the disaster that was rapidly overtaking their people after the relocation. The loss of their homeland left them unable to cope with the challenges of life at a place that belonged to other people.

The cultural importance of homeland is that it links a people with its past and its future. Identity is symbolized by places of significance, such as the

gravesites of ancestors and locations for ceremonial activities, as well as geographical features such as mountains and lakes. These places of cultural significance were sometimes destroyed in the wake of relocation, the graves of the Cheslatta T'en being but one example.

Relocation can be seen to create stress brought about by

> a major reduction in cultural inventory due to a temporary or permanent loss of behavioral patterns, economic practices, institutions, and symbols. This affects all relocatees, both forced and voluntary....It tends to be most serious when relocatees are moved as a community to a dissimilar habitat where they must coexist with unfamiliar hosts.[278]

The profound cultural loss triggered by relocation leads to stress and despair. The Hebron Inuit continued to be seriously affected in the years after the moves. In Makkovik, for example, young relocatees were self-conscious about their identification as Hebron Inuit because this had become a synonym for low status in the community. Even though they were relocated to communities that were home to other Inuit, they were set apart culturally by their dialect, customs and inexperience with the surroundings. Their separateness was enhanced by their poverty and their physical isolation in residential enclaves. The destruction of family ties and the degrading circumstances of their lives led many Hebron Inuit to drift from community to community as permanently displaced people:

> Not only were families separated by having to live in different communities but the recurrent deaths of young people, mature adults and also elderly adults – who were often said to have died from heartbreak over leaving their homeland – broke the spirit of their surviving relatives and left them traumatized in overwhelming and silent pain.[279]

At Easterville, the relocation resulted in the Cree becoming more atomistic – individuals or families became increasingly isolated as formal bonds were weakened in the kinship, economic, political and religious spheres of community life. Landa states that this atomism probably intensified some of the basic causes of alcohol abuse, with the consequent development of negative behavioural complexes and the continued breaking down of family structure.[280] Easterville elders continue to mourn the home they were forced to leave:

> I don't like the rocks here. I don't feel it is my home here. My home is at Chemuhowin, but we can't go back there now. It's gone.[281]

Loney indicates that scant attention was paid to the potential effects of relocation on the Chemawawin community's stability and cultural integrity. He draws attention to the cultural importance of traditional activities that affirm for

First Nations people their links with the past and with the land. Loney quotes a study on the negative impact of relocation on traditional Cree culture:

> The former system of sharing and looking out for one's neighbours and friends seems to have disappeared, replaced by a cash-oriented community whose members expect to pay even for wild foods and be paid for the smallest service...All 21 respondents express their belief that Indian culture and values have been weakened as a result of the hydro project. Most claim that fewer and fewer young people are learning and speaking Cree. Nor is there respect for elders that the young ones had...Stress, anxiety and fear have been much in evidence since the flooding.[282]

In the case of the Sayisi Dene there is evidence that relocation disrupted the people's ability to pass on cultural knowledge.[283] When the group finally settled at Tadoule Lake, the young people who had grown up next to non-Aboriginal society in Churchill – with electricity, radio and television – found it a struggle to adapt to a community in the bush. Beginning life anew at Tadoule Lake was easier for the elders and middle-aged, but by this time a social and cultural discontinuity had set in. The repeated relocations had interrupted the traditional means of teaching and learning and of passing on a strong sense of Dene identity.

Coates states that in the Yukon relatively little attention was paid to cultural integrity in the process of establishing specific sites for Aboriginal villages and encouraging people to move there.[284] The Yukon First Nations are not a single people, but belong to several different cultures. Hence the new villages contained many cultural, social and political dimensions that were not present in the pre-Second World War social world of the Yukon First Nations. Several of the Yukon reserves, including some of the mixed-culture settlements, quickly encountered difficulties of a much more serious nature than any experienced in the pre-village era. Problems included apathetic, unskilled and unemployed adults, neglected children, serious alcoholism and violence (including killings) between and within factions and families. In the final analysis, the groups created by Indian affairs had a certain geographic logic but lacked cultural integrity.

> It is on this concept of territory that Aboriginal and non-Aboriginal people do not understand one another. Territory is a very important thing, it is the foundation of everything. Without territory, there is no autonomy, without territory, there is no home. The Reserve is not our home. I am territory. Language is territory. Belief is territory, it is where I come from. Territory can also vanish in an instant... [translation]
>
> Oscar Kistabish/Osezima
> Val d'Or, Quebec, 30 November 1992

Thus relocation can be seen as part of a long and painful process of dispossession and alienation of Aboriginal societies from the land and from the cultural and spiritual roots it nurtures. Alienation leads to a sense of powerlessness, as expressed by the Innu of Davis Inlet and the Gwa'Sala. Separation from their environment – the place where Aboriginal people had always made their own decisions – made this sense of powerlessness almost inevitable.

Relocation, then, like the other forces that have disrupted the lives of Aboriginal people, contributes to 'culture stress'. Culture stress is often apparent in societies that have undergone massive, imposed or uncontrollable change. It is studied primarily in relation to immigrant and indigenous populations, but research on the aftermath of natural disasters, such as floods and earthquakes, and social disasters such as wars, reports similar symptoms of social breakdown.[285]

In cultures under stress, normal patterns of behaviour are disrupted. People lose confidence in what they know and in their own value as human beings. They may feel abandoned and bewildered and unsure about whether their lives have meaning or purpose.

In our special report on suicide among Aboriginal people, we discussed the factors that contribute to culture stress. Perhaps the most significant are loss of land, loss of control over living conditions and restricted economic opportunity. In turn, we found in our research for that report, culture stress has a central role in predisposing Aboriginal people to suicide, self-injury and other self-destructive behaviours. Elders like Cheslatta Chief Marvin Charlie are sure that relocation has played a major role in contributing to suicides in his community. The fact that loss of land is one of the elements of culture stress leads to the general conclusion that it has probably been a contributing factor in many other cases as well.

4.2 Economic Effects

The relocations examined in this chapter generally demonstrate a reduction in the Aboriginal economic base. Where people had once possessed a relatively large land base and diverse resources in the form of game for food, clothing and tools, as well as trade with other peoples, after relocation their land base and resources were, by comparison, relatively small and limited. The economic base was reduced in three ways:

1. through loss of access to land and resources when people are relocated to new, more restricted environments;
2. through loss of land and resources because of environmental damage, such as flooding as a result of hydroelectric development, and
3. through loss of employment opportunities when relocation moves people away from settled areas.

Whatever the cause, the majority of case studies indicate that, after relocation, welfare becomes the relocated people's primary economic resource. Not only have

governments failed to understand the importance of the land – and thus the cultural implications of relocation, they have rarely considered how the relocatees will make a living after they are moved.

The centralization of Baffin Island Inuit from 'rural' camps to larger settlements created welfare dependency overnight.[286] As the population of settlements such as Pangnirtung increased, so did dependence on government programs. Natural resources were no longer as accessible, and the independence of a hunting and gathering, fishing and trading economy dissipated with the end of nomadic, decentralized life. Cash was now needed to support the hunt for country food or to shop for imported food. Jobs were scarce and Inuit soon discovered that their traditional skills were irrelevant in the few wage-earning positions available.

When the Sayisi Dene were relocated to Churchill, their loss of hunting and trapping equipment and the enforcement of provincial game regulations added to the other roadblocks preventing them from supplementing their family incomes, whether in kind or in cash.[287] Likewise, the economic self-sufficiency of the Cheslatta people was destroyed by relocation.[288]

When the Gwa'Sala and 'Nakwaxda'xw amalgamated at Tsulquate, they found that the promised moorage facilities for their boats had not been provided. Within five years of the move, only three boats in the band's gillnet fleet were still fishing, and only two of them regularly.[289] When boats were used for homes because the promised houses were not built, fishing licences were revoked because the boats were no longer defined as fishing vessels. Most of these boats, as well as others used for fishing, had to be moored in the river or on the beach, where they were eventually destroyed by high winds, waves and rain. This deprived the bands of access to marine resources, formerly a mainstay of their economy.

When Hebron Inuit were relocated to communities further south, the issue was again one of lost access to resources.[290] While at Hebron, Inuit had their own camps and places to hunt and fish. When they were moved to the other communities, the best hunting and fishing places were already occupied. They had no position in the established order of hunting and fishing privileges. They lacked the knowledge of the landscape and wildlife patterns necessary to enable them to procure game for food or sale and had to discover game areas themselves, sometimes assisted by local residents. The hunting skills that had served them so well in the past, however, were not necessarily appropriate in the new environments, especially at Makkovik with its forested landscape.

Alice Pilgrim, an Inuk from Nain, Labrador, observes that the Hebronimiut

> had good hunting grounds....They lived off the land and...[were] used to surviving off the land. And you're relocated and then there's no place to hunt. All the hunting grounds are already taken. That in itself is a damage to the spirit.[291]

Hebron families saw the immediate result of their relocation in the loss of foods they had enjoyed and depended upon previously. John Jararuse, also from Nain, said,

> My sister told me once there was an old woman in Hopedale from Hebron. She was so hungry for wild meat. She was so hungry for wild meat like seal meat, caribou meat, char, things like that. She even thought she was going to die and because like I was saying, we were not used to white people's food.[292]

According to Clara Ford of Makkovik,

> My food, I missed my food, like the trout and everything. The food had a different taste than Hebron.[293]

Hebron hunters found there were few places for them to hunt. When a hunter stopped hunting, families had to rely on food supplies obtained from social welfare. This entrenched their poverty and the dependence of households on means other than their own.

The effects were similar at Easterville. Landa reported that 90 per cent of the hunting and trapping grounds were destroyed by flooding after dam construction. Trapping ceased to be of major importance in the economy of the Cree community, as it had been in Chemawawin. Hunting was also regarded as poor: the number of moose hunted dropped by 75 per cent, for example, and the available sources of animal protein could not support the needs of the community as they had before the relocation. Consequently, the role of imported meats increased greatly. As well, Manitoba's commercial fishing regulations and quotas stipulated that only licensed fishermen could operate or be employed on a fishing craft during the summer season. Only about half the adult males were able to find employment in fishing or to get licences and supplies to fish for themselves. Floating debris from the dam disrupted commercial fishing excursions, which in any event were terminated in 1971 because of mercury contamination caused by the flooding. This made it impossible for people to supplement their diets with fish. As well, the gardens so evident at Chemawawin could not be planted on the rocky land at Easterville.

A new sawmill operation established at Easterville by the provincial government to redevelop the Cedar Lake economy employed only a handful of Aboriginal men, who were forced by distance to live out of town near the mill. There were few casual jobs after the relocation and none of the Aboriginal residents of Easterville was employed by Manitoba Hydro. A co-operative was established in the community but it failed to alter the situation. Five years after the relocation the people of Easterville were generally dissatisfied with their new economic conditions and locale, as the following statements from relocatees indicate:

> We had a good life at Chemuhowin. There was lots to do. It was good land. Not like this ugly and scarred place. Who can make a living in a place like this?
>
> I don't like the stones here now. The people cannot eat stones.
>
> At Chemuhowin I liked the trapping. And I had a garden. You can't make a garden here. I liked shooting ducks and geese over there. We have to go a long ways (for ducks and geese) here. Everything is drowned.[294]

Almost two decades later, Loney saw little change in the economic circumstances at Easterville. He paints a portrait of a community that formerly had a diverse and strong economic base, a marked contrast to the pervasive and long-term welfare dependency that resulted from relocation.

Finally, relocated populations were affected by a loss of employment opportunities or by governments' empty promises to provide employment as a benefit of relocation. For example many of the Mi'kmaq of Nova Scotia opposed the centralization plan because it meant moving away from their employment. As they had anticipated, when people arrived at Eskasoni or Shubenacadie, few employment opportunities awaited them. Patterson concludes that the main flaw in the centralization plan was its failure to provide adequate work. Being forced onto relief or having to line up for work affected the pride of the Mi'kmaq. When they did admit that government help was needed, the final erosion of their self-sufficiency set in:

> What ruined the people was the movement to this reserve [Eskasoni]. The young over here get welfare, but one time ago it was a long wait because in order to qualify for welfare you had to be old.[295]

A similar employment problem developed at Tsulquate. Although there was some casual employment in logging, tree-planting and mining, few seemed to make it across the bridge to Port Hardy to participate in the town's growing economy. Relocatees living across the river in Tsulquate were physically isolated, and they also felt social isolation as a result of discrimination. Crowded living conditions also contributed to the problem:

> ...problems of overcrowding in homes seriously affect the abilities of people to maintain good work habits, and hence jobs...It is...possible that the problems of unemployment are so pervasive that there is an unofficial "taboo" against maintaining a job.[296]

In 1980, 80 per cent of adults in Tsulquate who were able to work did not have employment. A few short-term government make-work projects were implemented,

but these failed to address the staggering need for steady employment, training and economic development in Tsulquate.

The spiritual importance of the land and its role as a source of economic (and cultural) sustenance are inseparable. Uncertainty about new sources of revenue and subsistence, together with anxiety about new expenses and the cost of living in a new environment, can have "shocking and debilitating effects".[297] The result can be long-term impoverishment, welfare dependency and the social disintegration experienced by the Sayisi Dene, as an Indian affairs official observed in 1971:

> [T]he case of the Chipewyans presents itself really as a sorry tale of how a group of isolated and primitive, but largely self-reliant people, has undergone radical disorder and disintegration through re-location, resulting in detrimental if not tragic effects to both the group itself and the larger community around it...[298]

Economic losses are seldom reimbursed by the state. Land at the new location is often inadequate or unaffordable. Relocatees often become surplus or menial labourers, and their skills as hunters are of little value in making a living in the new economic environment. One study observed that even governments with the best of intentions often implement moves before preparing an adequate economic support base for the relocatees, and that "almost universally, governments fail to pay attention to how relocatees are going to make a living after removal".[299] The cases examined in this chapter illustrate this shortcoming dramatically. Even when the difficulty of making a living was anticipated – as in the case of the Chemawawin Cree relocated because of the Grand Rapids dam – little or nothing was done to deal with the problem. In moves like that of the Cheslatta people, the haste and lack of planning, the absence of consideration for people's interests, and the denial of their right of self-determination practically guaranteed an economic disaster. The collapse of Aboriginal economies following relocation is also linked to the post-settlement health of the community.

4.3 Health Effects

One of the most immediate indicators of the stress of relocation is people's health. Ill-health can be manifested physically and psychologically, and it affects both individuals and groups. The case studies of Aboriginal relocations define health in general terms that refer not only to how people die but also to how they live.

Several studies found an increase in mortality rates among relocated populations. For example, Culhane's demographic study of the Gwa'Sala and 'Nakwaxda'xw points to an increase in deaths in the community immediately following the move.[300] The factors contributing to higher mortality rates following relocation include environmental change, overcrowded housing, poor

sanitation and contact with infectious diseases. Overcrowding and poor sanitation also contribute to a rise in morbidity. This was the problem at Tsulquate, where two years following relocation only eight houses had been made available for 200 people. As many as 24 people were crowded into one-room shacks with no sewage facilities or running water, and access to medical facilities was limited. Among the Mi'kmaq of Nova Scotia, the result of the centralization scheme was also insufficient housing and overcrowding. Widespread poverty is also associated with higher levels of morbidity and mortality.

The natural environment to which people were relocated sometimes proved detrimental to their health, and in several cases, was a factor in greater morbidity. For example, at the Whitehorse reserve, the Kwanlin Dun people were pushed to the outskirts of the city and forced to live for years in a polluted environment near an industrial site. Health problems were compounded by an absence of water and sewer services.

> The physical surroundings do not in any way enhance the Indian way of life. There are neither trees nor clear water. Houses are crowded together in an unplanned, haphazard manner. Raw sewage from the City of Whitehorse flows into the Yukon River which borders the village on the east. Raw sewage from Camp Takhini and the Takhini Trailer Court gathers in a natural "lagoon" adjacent to the north side of the village. A sheer cliff 75 feet high faces the residents to the west. To the south is the White Pass Truck Yard which, with all ground cover recently removed, results in constant clouds of dust sweeping over the village.[301]

At Easterville, an unhealthy environment resulted in an increase in both illness and death. Loney indicates that health standards declined, citing a study commissioned by the affected bands in 1978:

> Ten of the eleven who claim that no one in their house was sick before the flooding cited illnesses afterward, ranging from frequent fever and flu, to high blood pressure and other serious illnesses.[302]

One difficulty was that the thick limestone on which Easterville was built prevented the establishment of pit toilets and created sanitation problems. The well water also became contaminated, and in 1970-73 the lake was closed for fishing because of mercury contamination. Furthermore, local residents reported at least six deaths among those fishing the lake, which the Cree believe were caused when boats struck floating debris.[303]

A final example of the health problems caused by relocation is the case of Hebron Inuit. In this case lack of knowledge about the new surroundings proved dangerous. An analysis of church records in Nain, Hopedale and Makkovik by Carol Brice-Bennett shows an increase in the death rate as a result

of accidents and other causes among Hebronimiut following relocation. The greatest increase was among infants and the elderly.[304] Before the relocation, the major cause of death at Hebron was illness, with half the deaths involving infants under two years of age. A small percentage of deaths was attributable to mishap, such as accidents related to hunting or, occasionally, food poisoning. After the Hebron Inuit relocated in 1959, mishap and violence accounted for a greater number of deaths, especially for the first two decades after the moves. Furthermore, these deaths occurred among those ranging in age from 11 to 40 years. Seventeen of 29 mishap deaths were the result of drowning or exposure, mainly involving male Inuit. These were related to poor ice or weather conditions and to lack of knowledge among Hebron Inuit about the new landscape and climate.

The situation was particularly severe in Makkovik, a community located below the tree line and an environment alien to Inuit accustomed to tundra. During the 1960s, Hebronimiut deaths were four times that of non-Inuit deaths in that community. Fewer deaths occurred after 1980, by which time people had gained the environmental knowledge needed to survive in the new locations. Of the two suicides of Inuit males in Makkovik in the 1980s, both parents of one of the victims had been moved from Hebron; the other victim had one parent who was moved from Hebron. By 1993 only half the original Hebron Inuit were still alive.

> I feel that it did not affect me all that much but it was very different for our elders. I could see that their hearts were crying out for their homeland and it was very emotional and hard to bear. Because the older people were reluctant and did not want to leave Hebron, they were shocked when they were told that they had no choice in the matter. We were not notified beforehand, and it was such a shock to the older people. I believe that this is why the elders did not live for very long after the relocation. It took a big toll on their lives having to leave the land they loved so much.[305]

The relocations affected Aboriginal people psychologically as well as physically. The manifestations of poor psychological health range from homesickness to apathy to severe depression. When Justice Thomas Berger was travelling through the Mackenzie Valley in the 1970s, inquiring about the potential effects of a major oil pipeline on Aboriginal people, he was told by a psychologist about a kind of depression that many Aboriginal people experience. He said:

> This disorder is recognized by a set of symptoms including passivity, lack of interest, decrease in energy, difficulty in concentration, lack of motivation and ambition, and a feeling of helplessness. These symptoms can vary in degree and from person to person and culture to culture. It has been suggested by many of my colleagues in psychology and psychiatry that this disorder is virtually endemic among

> the northern native people but at a subclinical level or [it is] perhaps simply unrecognized as depression.[306]

This kind of depression may have contributed to ill-health following relocation from Hebron, stemming from loss of home and homeland, separation of families, and unfamiliar and often unkind new surroundings. As Scudder and Colson put it,

> We would expect, therefore, that forced relocatees would be likely to be subject to depression, and this has certainly been reported among refugees.[307]

As we have also seen, the people relocated to Tsulquate were subject to severe discrimination, adding to their psychological stress. Psychological stress was also a factor for the Sayisi Dene relocated to Camp 10 outside Churchill, right next to a cemetery.

Following the resettlement of Baffin Island Inuit, people experienced improved physical health but deteriorating mental health. For example, in Pangnirtung, Billson documents "a kaleidoscope of debilitating social and mental health problems" resulting from a traumatic change in a way of life. Only those with access to cash could afford to hunt, and few jobs were available in the new communities. Social relationships also changed dramatically; this was particularly evident in family relations, where parents lost control over children after the move from small extended family-camps to communities of 500 to 1,000 people. The roles of men and women also shifted, and in many families traditional roles were reversed. Together, these factors contributed to a pervasive sense of frustration and a loss of self-esteem among Inuit, resulting in rising rates of domestic violence, alcoholism, drug abuse and suicide, especially among men who had lost their role as providers.[308]

Alcoholism is often cited as a response to, and an escape from, the physical and psychological stresses of relocation and the depressing sense of loss and powerlessness among relocatees. At Easterville, for example, alcoholism became a major problem after relocation. Most of the accidental deaths that occurred after the relocation could be attributed, at least indirectly, to misuse of alcohol or alcohol substitutes. A study conducted in 1980 concluded that

> The abuse of alcohol appears to be related to a form of mental depression which has developed since the relocation...According to one [local] health official, 'A lot of the older people are in a...depression. A sort of low level depression...A lot of these people are sick and it is because they don't have the will and happiness to be healthy. Every elderly person in the community is part of the case load.'[309]

Psychological stresses related to relocation are more difficult to measure but are no less real than the physical effects. People grieve for their lost homeland.

They feel anxious about the future but also powerless to affect it, since they have been unable to control what has happened to them in the past.

4.4 Social and Political Effects

The social and political effects of relocation are complex. Familiar social structures and activities are weakened. Relocation can create a vacuum in community leadership, because former leaders are often discredited by the time they arrive in their new communities. They may be seen as impotent, because they were unable to prevent the move, or as compromised if they encouraged or cooperated with the move. The original leaders become associated with and are sometimes even perceived as the cause of the social and economic hardships brought about by relocation.

> Invariably, transfer has the effect of destroying a community's cohesion as a political unit, and if political structures remain intact at all, they most often become dependent upon the transferring authority (the State) in a number of ways.[310]

Emery's case study of the relocation to Tsulquate discusses the breakdown of local leadership. He relates the fate of an individual who was a respected spokesperson before the move and was instrumental in persuading the community to move to Tsulquate in an attempt to improve living conditions for their children. When he realized the mistake he had made after the relocation, he became "a neglected, ignored, shadow of a person."[311]

Similar circumstances are described by Brice-Bennett in her study of the relocation of Hebron Inuit. The traditional authority of the Hebron Elders was diluted when families were divided and moved to different communities which already had established leaders. In Hebron, the Elders council exercised considerable authority over the local population, a system that was undermined by relocation. Hebron Elders were not consulted on the closing of their community, and they had no authority in the new communities. Nor were any of the Elders councils in the three host communities (Nain, Hopedale and Makkovik) consulted on the social or economic implications of the sudden increase in population.

At Easterville, disruptions were also evident in community leadership patterns following relocation.[312] Previously, the chief at Chemawawin had worked closely with the trader in the organizing and maintaining the community. As the economic pivot of the community, the trader was a source of strong community leadership that was no longer available after the move to Easterville.

Easterville community affairs also revealed factionalism along kinship lines, especially in the election of the new chief. On many issues, the community also divided along age lines. These splits in the community may have contributed to an increase in alcoholism, family and marriage breakdown, petty

crime and juvenile delinquency, a breakdown of parental control and aggression between community members. According to local people interviewed by Landa in 1968-69, such problems were non-existent in Chemawawin, in part because the physical distance between residences made it difficult for young people to congregate and made family controls more effective. In Easterville, changes in residence patterns and weakened family control played a role in what became a sizeable juvenile problem, controlled now by outside authorities such as the RCMP.

At Camp 10 and Dene Village near Churchill, the problems the Sayisi Dene had trying to blend with the local population were attributed largely to their traditional leadership system, which no longer fit their circumstances.[313] In subsistence-based economies leadership was situational – no one person had the authority to make all decisions on behalf of the group. Leadership depended on the issue at hand and the person with the qualities needed to deal with it effectively. At the new location, however, the local Indian agent decided the solution was to encourage the development of leadership qualities among band council members, an approach that violated traditional norms and contributed to the growth of rivalries between families. In the past, the group might have split up to deal with this social problem, but this solution was no longer possible at Camp 10 or Dene Village. Band members were forced to co-exist under strained circumstances, deepening already serious social problems. For example, inappropriate housing and settlement plans at Dene Village deprived the Sayisi Dene of their sense of family privacy. Alcoholism, child abuse and sexual abuse occurred at an alarming rate, and racism was rampant in the town of Churchill. Families disintegrated into groups of strangers, and elders died humiliated and brokenhearted: "What had once been a proud and industrious people was now a hopeless collection of broken people".[314] In the end, Sayisi Dene administration was handled by Indian affairs. Even simple tasks were done by the local agent because it was considered easier than teaching the people to do it for themselves.

In the Yukon, the government counted on the band council system, as managed by Indian affairs, to provide stability and administration for the new and expanding villages. However, the system bore little resemblance to traditional models of leadership and group decision making, which respected clan distinctions and worked to achieve consensus. Yukon villages were slow to adopt the electoral model and were thus delayed in gaining 'official' status. The system tended to produce leaders whose legitimacy rested on the political and legislative authority of Indian affairs rather than on the traditional sources of authority in Aboriginal groups. The villages that adopted the new system soon discovered that a non-traditional political system created new difficulties and tensions and was not successful in addressing existing problems. Given the relative youthfulness of Yukon communities, the cultural mixing that occurred in many of the villages, and continued conflict with the non-Aboriginal population,

band councils faced considerable difficulties. In some instances, the councils were scarcely effective at all, and Indian affairs stepped in more directly. In the early 1960s and 1970s, several communities protested against elected councils and successfully deposed chiefs and councillors.

This loss of social cohesion affected not only the people who were moved but subsequent generations as well. Ernie Bussidor describes the effect of relocation on the Sayisi Dene:

> Although our story is decades old, and told countless times to various commissions of inquiry to no avail, our persistence is undaunted, and for a reason: in simple words – we need help, together to heal. That has to be our first priority. It has come to a full circle again, where our children are living in despair of sorts, because we as adults have not healed from the pain of growing up in a destructive and dysfunctional environment.[315]

Cross-generational suffering has also been identified as a major factor in the difficulties encountered by the Anishnabe community of One Man Lake after it was relocated to the Whitedog Reserve in Ontario.[316]

When traditional authority is undermined, the potential for community co-operation and reciprocity is broken, sometimes irreparably. This leads to further deterioration of mores and traditions, codes of behaviour, ethics and value systems.

4.5 Effects on the Relationship Between Aboriginal and Non-Aboriginal People

By now it should be apparent that many Aboriginal communities continue to feel a deep sense of grievance about relocation. These feelings were expressed clearly in our hearings and are documented in the research. This sense of grievance will be healed only when there is recognition that relocation is part of a series of wrongs committed against Aboriginal people by governments. With this recognition will come understanding of the reasons for these actions, which are rooted in erroneous assumptions about Aboriginal people.

Many communities want governments to listen to their grievances. By listening, governments will be recognizing that the pain still being felt in Tsulquate, in Tadoule Lake, in Makkovik, and many other places, is very real. Recognition must be followed by acceptance of responsibility. Only then can an attempt be made to resolve the problems that have visited these communities since relocation. As we said in our report on the High Arctic relocation,

> The Commission considers that resolution of the complaints of the High Arctic relocatees will facilitate reconciliation generally between the Inuit and the government of Canada.[317]

We referred earlier to the March 1995 statement by the minister of Indian affairs and northern development, Ron Irwin, concerning the High Arctic relocation. We believe that the minister's statement, while not a formal apology, represents a significant departure from previous government positions. The minister also stated that his government recognized the need to find "some fair resolution to the long standing grievances of those Inuit who were long ago relocated from Inukjuak to the High Arctic communities of Grise Fiord and Resolute Bay."[318]

These words represent an important first step in resolving the grievances of the Inuit. However, many other communities were also relocated, apparently without their free and informed consent, and the legacy of relocation continues to impair social, political and economic life there. A hard look must be taken at these relocations. Recognition will not, in itself, heal these wounds. But it will give people hope that their grievances are finally being taken seriously.

With this in mind, we turn now to the final part of this chapter, a discussion of the criteria and standards that should guide relocations. We conclude with recommendations to deal with outstanding grievances and ensure that future relocations respect the rights of the Aboriginal peoples they are intended to assist.

5. Relocation and Responsibility

5.1 Responsibility of Governments

> Where the law is tacit, the politics of crude power flourish.[319]

Relocation is only one aspect of a much larger set of relations between Aboriginal and non-Aboriginal people. In the broadest sense, it represents a form of dispossession, part of an historical process set in motion long before Confederation. It can be argued that Aboriginal peoples have been moved – in one way or another – since Europeans first began exploring the new world.

In the conclusion to our report on the High Arctic relocation, we considered the federal government's responsibilities to the Inuit in terms of five general criteria, which are capable of flexible application to cases of relocation. To summarize, these criteria involve

1. the requirement for government to obtain appropriate authority before proceeding with relocation;
2. the need for the relocatees to give their informed consent to the relocation;
3. the care and skill with which the relocation is planned, carried out and supervised;
4. the promises made and whether they are kept; and
5. the humaneness of the relocation.

These principles are meant as guidelines, and they

> inform both our moral and our legal judgements. They are principles that apply to all and, in the case of Aboriginal peoples, are reinforced by the fiduciary responsibilities of the government. The content and the discussion of these principles in this case necessarily reflects the issues of the case. Other issues in other cases may require further elaboration of these principles. The application of these principles depends on the facts of each case, and events must be considered in light of what was known or reasonably foreseeable at the relevant time. Care must be taken not to colour an appreciation of the facts as they existed with today's knowledge and beliefs.[320]

We are not in a position to make definitive judgements on the facts in the cases reviewed in this chapter; rather, we have let the stories speak for themselves. Because of what we have heard and what we have learned, we believe these stories and the principles we have outlined support our recommendations for a process to deal with the deep sense of injury that surrounds past relocations. This process must recognize the damaging effects of relocation on the lives of many Aboriginal people and, at the same time, permit reconciliation based on a resolution of the grievances so powerfully expressed.

Did the relevant governments have the proper authority to proceed with a relocation?

In our report on the High Arctic relocation, we examined the authority of government to proceed with a relocation, clarifying that it

> involves consideration of specific legislation that might authorize relocations, the general mandate of the department concerned, the authority conferred through budgetary appropriations, and whether what was done falls within the scope of what was authorized in law.[321]

In that particular instance, we concluded that there was no specific legislation authorizing the relocation. Officials proceeded on the basis of the general mandate of their department but had no legal authority to proceed with an involuntary relocation. Furthermore, there was unauthorized use of the Eskimo Loan Fund to establish government trade stores deemed essential to the viability of the new communities. We also concluded that the federal department exceeded its authority in intentionally withholding family allowance and old age pension benefits from the relocatees.

In the cases summarized in this chapter, it is not possible to be definitive about the authority for the various relocations without further, detailed examination of each instance. In some cases there is mention of an order in council

being used (e.g., the Mi'kmaq centralization and the Chemawawin Cree relocation), and in another case legislation whose principal purpose was not related to relocation was used (the *Prairie Farm Rehabilitation Act* with respect to the Métis of Ste. Madeleine). The agreement to move the Songhees was confirmed by a specific act of Parliament, and this was followed by an amendment to the *Indian Act* to make the transfer of reserves and the removal of Indian populations easier to carry out in future. While these various kinds of authority are given, questions remain about whether the authority obtained was proper and sufficient and whether implementation of the relocations fell within the terms of what was authorized by law.

In other cases discussed in this chapter, there does not appear to have been specific legislation authorizing a relocation. Rather, officials of federal and provincial governments, often proceeding in collaboration with non-governmental interests such as the Hudson's Bay Company, decided that people should move and pressured them to do so. Questions arise about whether they had the authority to make and implement such decisions, especially to the extent that the relocations were involuntary. In several instances, the relocations appeared to be ad hoc in nature, carried out in the absence of well developed policy guidelines.

The cases we have described also raise other disturbing questions that need to be pursued – for example, whether benefits to which people were entitled were cut off as an inducement to move to a particular location, whether land surrenders that accompanied some relocations were made properly, and whether surrenders were consented to by properly elected chiefs and councils.

Closely related to the questions of whether governments obtained the proper authority to proceed with a relocation is the issue of whether they obtained the free and informed consent of those who were to be moved.

Did the relocatees give their free and informed consent to the move?

Important issues of consent, and how it is obtained, are raised by all the cases in this chapter. In our report on the High Arctic relocation, we found that several factors demonstrated that the Inuit did not give informed consent to the move. The criteria for obtaining consent laid out in that report are relevant to this chapter as well.

> The relocation scheme involved moving people from lands that they had occupied and exploited for centuries, long before Europeans came to North America....Consent must be free and informed. A basic requirement in any circumstance involving the obtaining of consent is that everything material to the giving of consent be disclosed and that there be no material misrepresentation.[322]

When a community gives its consent to a relocation plan, that decision must be based on a full understanding of the conditions under which people are

being relocated and the situation to which people are being relocated. Free and informed consent includes people's full knowledge of the reasons for the relocation, as well as the potential risks and disadvantages of the move.

It is not enough to argue that a people appeared to agree to relocation. It is incumbent upon the government or the agencies initiating the relocation to consider all the cultural, social, health and political factors that must be heeded in order to ensure informed consent. In the cases we looked at, claims that consent was either completely lacking or based upon insufficient information warrant closer examination.

Was the relocation carefully planned and well implemented?

This criterion implies that governments have a responsibility to ensure not only the material well-being of the people being relocated but also their social and spiritual well-being. When the Sayisi Dene and Cheslatta T'en were moved, they had to leave behind a great deal of valuable equipment and many of their belongings. The houses of the Gwa'Sala were burned down and the people wound up living in beached longboats or overcrowded shacks at the new location. The Mi'kmaq were supposed to take up agriculture but the land they were moved to was inadequate. Lack of planning, rushing to meet artificial deadlines, inadequate consultation and little understanding of potential negative effects (or ignoring warnings about them) often marked the relocations we have examined.

In the case of the High Arctic relocation, poor planning and lack of supplies created enormous hardships for the relocatees, especially in the early years. Our report concluded that

> various aspects of the project demonstrated significant lack of care and skill, causing hardship and suffering to the relocatees to whom the government owed a duty of care. As such, the government was negligent in the planning, implementation and continuing supervision of the project.[323]

The disruption and anxiety of relocation alone are enough to require very careful planning and serious consideration of all potential outcomes before a relocation is carried out.

Were the promises made to the relocatees kept?

As we have seen from the relocations reviewed in this chapter, governments often made promises to the communities they wished to relocate, to the effect that certain things would be done or certain rights or interests would be protected, if the people would agree to move. Communities say they were promised housing and jobs, for example, that never materialized. The Sayisi Dene say they were promised 45 tons of building supplies and several canoes but these were never delivered to North Knife Lake. The Cheslatta T'en understood that they would

not have to bear the cost of re-establishing themselves in a new location but this turned out not to be the case.

Typically these promises were made as part of discussions that took place before the move, when government agents and others were doing their best to persuade the community that it was in their best interests to move. Once the relocation occurred, however, and the bargain, as Aboriginal people understood it, was not kept, the relocatees had no way to compel the authorities to deliver on their promises and no recourse if they failed to do so. The question of whether promises made were actually kept provides a clear criterion for assessing past relocations as well as a standard for the future.

Was the relocation humane and in keeping with Canada's international commitments and obligations?

In our High Arctic relocation report, we said that humane acts involve treating people as people. Our humanity rests on the fundamental equality of all people as human beings. This principle has been elaborated and confirmed in many international instruments addressing, among other things, the right of all people to liberty and security, both physical and mental, and to enjoy one's culture in association with other members of society. Nevertheless, as Al-Khasawneh and Hatano point out,

> International law alone, certainly in its current stage of development, cannot solve many of the problems of population transfer. Policies and practices resulting in population transfer evolve from historical processes. Assuming the political will to do so in such cases, resulting problems *must be resolved through negotiations guided by existing human rights principles derived from general rules.*[324]

This leads to the conclusion that a made-in-Canada approach is required to deal with the implications and effects of relocations. However, any steps leading to the development of guidelines to protect the human rights of potential relocatees should reflect essential elements of international norms and standards. Such guidelines are crucial to future policy development in this area.

Were all government actions in accord with its fiduciary responsibility to Aboriginal peoples?

In *Sparrow* v. *The Queen*, the Supreme Court of Canada ruled that

> the government has the responsibility to act in a fiduciary capacity with respect to Aboriginal peoples. The relationship between the government and Aboriginals is trust-like, rather than adversarial, and contemporary recognition and affirmation of aboriginal rights must be defined in the light of this historic relationship.[325]

The government thus has responsibilities to Aboriginal peoples that carry with them a special duty of care. This means in part that the Crown must take care in obtaining consent:

> Certain relationships, especially those in which there is a significant imbalance in power or those involving a high degree of trust and confidence may require the trier of fact to be particularly careful in assessing the reality of consent... The beneficiary of a fiduciary relationship can still consent to a transaction with the fiduciary but the court will subject such a consent to special scrutiny. ...[Further,] in certain circumstances, consent will be considered legally ineffective if it can be shown that there was such a disparity in the relative positions of the parties that the weaker party was not in a position to choose freely.[326]

Despite this special duty of care, the relocations examined in this chapter raise many questions about government action or inaction. The Hebronimiut, for example spoke about feeling coerced when the relocation announcement was made in church, a sacred place that demanded silence and subservience in the Inuit view. Others have commented that they felt they were powerless to oppose the government decision. In some cases, such as that of the Chemawawin, the people initially trusted that the government was acting in their best interests. In other cases, those relocated implored the government to intervene to protect their interests. Whether governments fulfilled their fiduciary responsibilities to the people concerned provides an additional criterion against which the actions of governments can be assessed.

5.2 Establishing Standards for Relocation

In the future it is likely that communities, whether Aboriginal or non-Aboriginal, will continue to be asked to move by governments, although we believe this should be considered only for very good reasons and in exceptional circumstances. This makes it important to learn from experience and to establish standards for relocation that will avoid the tragic consequences outlined in this chapter.

The need to take action is underlined by reports from the international arena. For example, a report to the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities recommends that international standards governing relocation be clarified and that the sub-commission begin "work towards a draft declaration on the subject of forcible population transfers and the implantation of settlers and settlements."[327]

The World Bank, influenced by criticism of a number of its development projects, has developed guidelines in the past decade for resettlement under bank-financed projects. Its "Operational Directive: Involuntary Resettlement"

describes "Bank policy and procedures on involuntary resettlement, as well as the conditions that borrowers are *expected* to meet in operations involving involuntary resettlement."[328] The memorandum accompanying the directive emphasized the need to

1. minimize involuntary resettlement;
2. give people the means to restore or replace their former living standards;
3. involve both resettlers and host populations in resettlement activities;
4. design sound resettlement plans; and
5. provide compensation for land and property affected by the relocation.

Population transfer has also been addressed in a number of international human rights instruments, including the International Labour Organisation Convention No. 169, adopted in June 1989. While Canada has not ratified this convention, Commissioners believe that it contains important principles relevant to the cases discussed here. For example, article 16 deals with removals from traditional lands and compensation, stating that "They should occur only in exceptional circumstances, with the free and informed consent of the peoples concerned." Legally established procedures should provide "the opportunity for effective representation. They should be temporary wherever possible. If not, the peoples should be provided with lands of quality and legal status equal to those previously occupied."[329]

In Canada, the 1972 Royal Commission on Labrador examined the issue of relocation with respect to the Hebronimiut. In its final report, this commission outlined nine "principles of resettlement" to guide future relocations. They are worth quoting in their entirety:

> 1. Any assisted community resettlement must be voluntary and free from coercion;
> 2. Resettlement should only occur when it offers assurance of opportunity to earn a reasonable living for those who are resettled;
> 3. Resettlement must not bring economic hardship to residents of receiving communities;
> 4. Resettlement should only occur when the views of the people involved are known and when people have had an opportunity to discuss, with appropriate authorities, the implications of resettlement, and the need for it;
> 5. Resettlement should only take place after adequate opportunity, prior to resettlement, for representatives of those wishing to resettle, of those in the receiving community, and of those in Government, to consider resettlement jointly, and for representatives of those to be resettled, to visit the receiving community well in advance of resettlement;

6. When a community is to be resettled, its residents should have the opportunity to settle en masse in one receiving community;
7. Resettlement requires sound advance planning of many kinds and such planning must be carried out, in concert, by local people and other experts;
8. Resettlement does not end with physical relocation but requires continuing effort to ease adjustment;
9. The financial cost of resettlement must receive adequate consideration.[330]

The wording differs, but all these principles have a common aim: to reduce the arbitrary exercise of power by governments.

It is in this spirit, and given the Aboriginal experience with relocation conveyed to us so movingly, that we put forward the following *minimum* standards of behaviour that should apply to all cases of relocation. Our particular concern is with the relocation of Aboriginal communities, past and future, but we believe these standards (with the exception of the last one) should apply to any community relocation in Canada based on the basic human rights of all persons.

The minimum standards, which are consistent with the criteria referred to in our report on the High Arctic relocation, are as follows:

1. Governments must obtain and follow appropriate authority before proceeding with relocation.
2. The people who are to be moved must give their free and informed consent to the move and should be participants in decision making concerning the relocation.
3. The relocation must be well planned and implemented and should include consultation and planning with the host community.
4. Promises made concerning the relocation should be kept and supported by adequate resources. In this regard, compensation should be adequate and persons relocated should have ample opportunity to maintain or improve their standard of living in the new location.
5. The relocation must be carried out in a humane manner, respecting the rights of persons in keeping with Canada's international commitments and obligations. In this regard, persons who are to be relocated should have the opportunity to settle as a group in one receiving community.
6. Government actions must conform with the government's fiduciary obligations to Aboriginal peoples.

Such standards will have to be applied flexibly, of course, to take account of changing circumstances. For example, much of our discussion has dealt with the community level, but as self-governing Aboriginal nations become re-established in the future, a principle such as obtaining free and informed consent may well involve discussions at the nation as well as the community level.

Having listened to Aboriginal people's stories, examined the research and discussed standards for relocation, we turn now to recommendations. These recommendations will help the task of reconciliation by providing a mechanism to examine past relocations while at the same time ensuring that future moves adhere to the standards outlined earlier in the chapter.

5.3 Proposals for Reform

Accepting responsibility

The Commission is of the opinion that governments ought to acknowledge that the practice of relocating Aboriginal communities, where these relocations failed to adhere to the standards we recommend, has contributed to the violation of Aboriginal people's rights as human beings. This has produced a series of identifiable negative effects on people and communities. In many cases these effects are still being felt by relocatees and their descendants.

Our research and public consultations revealed that many Aboriginal communities continue to feel a deep sense of grievance about relocation. Healing will begin in earnest only when governments acknowledge that relocation practices, however well-intentioned, contributed to a denial of human rights. Acknowledging responsibility assists in the necessary healing process because it creates room for dialogue about the reasons for relocation and the fact that these reasons were often based on ignorance and erroneous assumptions about Aboriginal people and their identity. Aboriginal people need to know that governments accept responsibility for relocations and recognize their effects. Recognition and responsibility are the necessary first steps to overcoming the many adverse effects of relocation.

A new role for the Canadian Human Rights Commission

The Commission is also of the view that Aboriginal communities ought to be able to air their grievances in an open, public and fair process and receive compensation for and relief from the negative effects of relocations. While the mandate of this Commission is generally oriented to the future, some past grievances are too great to ignore. In this chapter, we have described several relocations that resulted in severe disruption and dislocation of Aboriginal communities. Such stories are particularly disturbing because they involve the fundamental human rights of Aboriginal people. The stories of past relocations – stories of oppression and resistance – deserve national attention and concern. They must be inscribed in the public consciousness of Canadian society through an open, public, flexible and fair process that underscores the human rights dimensions of relocation.

Commissioners are of the view that Parliament should amend the *Canadian Human Rights Act* to authorize the Canadian Human Rights

Commission (CHRC) to hold hearings to enable Aboriginal people to speak about the severe hardships they experienced as a result of relocations. In accordance with the six standards outlined earlier in the chapter, the CHRC should be empowered to inquire into past relocations to determine whether

- the government had proper authority to proceed with the relocation;
- the relocatees gave their free and informed consent to the move;
- the relocation was well planned and well implemented;
- promises made to those who were relocated were kept;
- the relocation was humane and in keeping with Canada's international commitments and obligations; and
- governmental actions conformed with its fiduciary obligation to Aboriginal peoples.

Hearings should not be structured to pin blame or identify legal wrongdoing, but instead to allow for the airing of Aboriginal stories of oppression and resistance with respect to relocation. Legislative amendments should not encourage legal formality, such as strict evidentiary rules and rights of cross-examination, but instead should aim for a process that fosters dialogue and trust. The CHRC should also be empowered to recommend a range of forward-looking remedies designed to assist Aboriginal people in rebuilding their communities.

This mandate to examine past relocations should not be permanent. Parliament should require the CHRC to resolve all outstanding claims within 15 years. A permanent mandate would tempt delay and extend the process of reconciliation indefinitely. Aboriginal communities are entitled to justice without undue delay, and Aboriginal and non-Aboriginal people alike deserve closure and finality on the issue of relocations.

Given the temporary nature of the mandate we are proposing, an alternative approach would be to appoint a public inquiry into past relocations.[331] The federal *Inquiries Act* authorizes the governor in council to appoint a public inquiry into "any matter connected with the good government of Canada or the conduct of any part of the public business thereof." The act also allows a departmental minister to appoint a commission "to investigate and report on the state and management of the business, or any part of the business, of [the] department."[332]

A public inquiry would enjoy the benefit of flexibility.[333] However, several advantages can be gained from using the CHRC to undertake a review of past relocation practices.[334] The CHRC is a neutral agency, independent of government, with specialized knowledge and skills in relation to human rights concerns. The CHRC provides accumulated expertise and an existing institutional infrastructure for investigating discriminatory practices, facilitating negotiations between the parties to human rights complaints, adjudicating claims when necessary, and fashioning appropriate remedies. The CHRC's specialized expertise has

been recognized by Madam Justice L'Heureux-Dubé of the Supreme Court of Canada:

> As for the Commission itself, Parliament unquestionably intended to create a highly specialized administrative body, one with sufficient expertise to review Acts of Parliament and, as specifically provided for in the Act, to offer advice and to make recommendations to the minister of Justice. In the exercise of its powers and functions, the Commission would inevitably accumulate expertise and specialized understanding of human rights issues, as well as a body of governing jurisprudence. The work of the Commission and its tribunals involves the consideration and balancing of a variety of social needs and goals, and requires sensitivity, understanding, and expertise.[335]

In addition, using an existing institution and its expertise would produce significant efficiency gains. Start-up costs would be minimized, and using the existing administrative resources of the CHRC would probably be more efficient than maintaining a separate administrative structure for an inquiry over a 15-year mandate. Not all the various institutional components of a public inquiry are likely to be used to the same extent at every stage of its mandate. Using the CHRC would reduce the cost of maintaining unnecessary administrative components during periods of relative inactivity.

The most compelling reason for empowering the CHRC to inquire into past relocations involves the normative status of the *Canadian Human Rights Act* and the CHRC itself. Referring to human rights legislation as "public and fundamental law", Mr. Justice Lamer of the Supreme Court of Canada stated,

> When the subject matter of a law is said to be the comprehensive statement of the 'human rights' of the people living in that jurisdiction, then there is no doubt in my mind that the people of that jurisdiction have through their legislature clearly indicated that they consider that law, and the values it endeavours to buttress and protect, are, save their constitutional laws, more important than all others. Therefore, short of that legislature speaking to the contrary in express and unequivocal language in the [Human Rights] Code or in some other enactment, it is intended that the Code supersede all other laws when conflict arises.[336]

A critical aspect of the acknowledgement sought of federal responsibility by Aboriginal peoples is that the federal government recognize this matter as a significant human rights issue. The willingness of the government to apply the normative and institutional framework of 'fundamental law' to its past relocation practices is an integral part of the process of reconciliation.

Indeed, the CHRC itself has insisted repeatedly that the treatment of Aboriginal peoples is a human rights issue. As the commission stated in its annual report for 1991,

> It remains the Human Rights Commission's view, as we told the Parliamentary Committee on a Renewed Canada in December, that the situation of the aboriginal peoples is the single most important human rights issue confronting Canada today and that it should be treated as such.[337]

This position was reiterated in the annual report for 1994:

> Twenty-five years after the White Paper the situation of the native peoples remains the most pressing human rights issue facing Canadians.[338]

Current powers

The bulk of the CHRC's work involves the investigation, conciliation and adjudication of formal complaints of discriminatory practices made under Part III of the *Canadian Human Rights Act*. However, the commission's mandate also includes a broader educative and advisory function under Part II of the act. Of particular note are the broad powers of informal inquiry, review and recommendation conferred on the CHRC by section 27(1).[339] Unlike its power to hear formal complaints, the commission's informal powers of inquiry, review and recommendation under section 27(1) appear not to be limited to 'discriminatory practices' as defined in Part III of the act.[340] And the act confers discretion on the commission to conduct such informal inquiries on its own initiative.[341] The CHRC has studied issues falling outside its formal jurisdiction, occasionally recommending to Parliament that the act be amended to include them.[342]

The CHRC has also undertaken to review past relocations of Aboriginal people. As noted in our July 1994 report on the High Arctic relocation, the CHRC commissioned a report in 1991 on the 1953 and 1955 Grise Fiord and Resolute Bay relocations. As explained by the investigator commissioned to prepare the report, because these relocations occurred in the 1950s, at first the CHRC had

> concluded that [the Commission's] statutory procedures for investigating complaints did not apply to the situation. However, in January 1991, CHRC made an informal arrangement with [Inuit Tapirisat of Canada and the Department of Indian Affairs and Northern Development] to conduct a review of the complaints and their surrounding circumstances.[343]

The CHRC also appointed a special investigator in 1992 to examine and make recommendations with respect to a number of grievances of the Innu Nation of

Labrador.[344] The commission's broad mandate under section 27(1) thus appears to permit an informal inquiry into and a report on past relocations.

While the CHRC has the power to facilitate a negotiated settlement between the parties to a formal claim of discrimination, the act does not explicitly confer a similar power on the commission with respect to an informal review. This has not prevented the CHRC from engaging in mediation efforts during such reviews. The informal 1991 relocation inquiry, for example, included a mediative element designed to "explore the possibility of arriving at a conclusion mutually acceptable to the Inuit and DIAND."[345]

A clear mandate to review pre-1978 relocations

We are of the view that Parliament should amend the act to confer explicit authority on the Canadian Human Rights Commission to inquire into, hold hearings on, and make recommendations with respect to relocations of Aboriginal people that occurred before 1978, the date when the *Canadian Human Rights Act* came into effect. Formal amendment would ensure that the authority of the commission to address relocations would derive directly from the will of Parliament. This would avoid any possible ambiguity regarding the commission's increased role and would preclude delays in carrying out the mandate. Moreover, the seriousness of the subject-matter, the proposed lifespan of the inquiry, and the need to provide speedy redress for the claims of individual communities demand an explicit statutory mandate instead of the informal and ad hoc process the CHRC must now use to address such issues. Finally, the commission's current lack of explicit authority to facilitate negotiation, to investigate each case fully and, if necessary, to compel testimony and the production of evidence, as well as the lack of specificity regarding its power to recommend relief, may hinder its ability to inquire adequately into past relocations.

We therefore propose that the *Canadian Human Rights Act* be amended to give the Commission the following specific powers in relation to inquiring into relocations that occurred before 1978.

Alternative dispute resolution processes

The Canadian Human Rights Commission should be authorized specifically to provide a wide range of alternative dispute resolution processes, including mediation, facilitation and consensual arbitration.

Hearings

We also propose that the CHRC be empowered to hold hearings on relocations that occurred before 1978 to enable Aboriginal people to air their grievances in an open, fair and public process. Hearings could occur before, during or after attempts to resolve disputes through alternative means.

Investigative and subpoena powers

While hearings should be conducted informally, the CHRC should be vested with effective subpoena powers with respect to documents, evidence and witnesses. Given the nature of the subject-matter and the purpose of the inquiry, we anticipate that such powers will be used sparingly, if at all. However, such powers are required to give the commission authority similar to that of a public inquiry. Commissioners appointed under the *Inquiries Act,* for example, can be given certain powers to compel testimony and produce documents, as well as to appoint experts and counsel to assist them and take evidence.

Remedies

The *Canadian Human Rights Act* should be amended to give the Canadian Human Rights Commission the authority to recommend a broad array of remedies to redress the effects of relocations that occurred before 1978, in keeping with the remedial aims of recognition, apology, compensation and prevention. It is essential to the Commission's proposed role that it have the authority to recommend remedies that will adequately redress the specific harms caused to individual Aboriginal communities.

Recommending that governments apologize to relocatees is both a type of compensation – compensation for the affront to dignity, self-respect and self-determination engendered by many relocations – and an important means of recognizing Aboriginal accounts of oppression and resistance. In fact, a Canadian Human Rights Review Tribunal articulated this dual purpose in the context of its current remedial authority:

> Any apology goes far beyond a confirmation of the personal victimhood of the victim. It serves a broad educative function that can advance the purposes of the *Act*.... [I]t acknowledges...a serious affront to human dignity. It holds out the hope and the commitment that the mistakes of the past will not be repeated in the future.[346]

We do not wish to suggest that an apology should depend on a finding of a deliberate intention to cause harm to Aboriginal people in relocations. Intent should not be a necessary condition for remedial redress. This is a truism of Canadian human rights jurisprudence. Courts have emphasized repeatedly that harmful effects are the central concern of human rights legislation in Canada.[347] The Supreme Court of Canada, for example, has stated that "[i]t is the result or the effect of the action complained of which is significant."[348]

Equally, compensation involves both recognition of responsibility and prevention of future harm. Compensation should attempt to redress harms done to the community as a whole by relocations, and it should be designed to prevent future harm from occurring. For example, community- and future-

focused remedies might include providing essential social infrastructure or services, or providing funding for special community initiatives.

The effects of relocation often are not limited to the relocation itself. As noted in this chapter, the effects of the government's initial treatment of the relocatees appear to have been compounded by inadequate provision of facilities and infrastructure in the relocated communities. This can produce a continuing cycle of discrimination and can perpetuate hardships that ought to be the focus of remedial recommendations. The continuing hardships that could be remedied through special programs include the isolation, privation, marginalization and stigmatization that often follow relocation and that operate as insidious barriers preventing Aboriginal communities from achieving greater control over their future. The Canadian Human Rights Commission should have the ability to recommend whatever special programs may be required to eradicate these barriers.[349]

In particular, the CHRC should to be empowered to recommend the following types of compensation:

- provision for essential physical or social infrastructure or services or special community initiatives;
- provision for returning, including re-establishment in the home community;
- provision for visiting between separated families;
- funding, for example, for additional services to assist in the readjustment of returnees or to assist all those who continue to be adversely affected by the relocation;
- settlement of individual claims for compensation such as, but not necessarily limited to, work done or services rendered for which payment was not received and for personal property lost or left behind; and
- costs, including future costs, incurred by the relocatees or their representatives in attempting to resolve their complaints.

Reporting

The CHRC should be required to include activity on relocation claims in its annual report and be authorized to make special reports as it sees fit. We also propose that the commission be given the authority to review and report periodically on implementation of its recommendations. This would be analogous to its current practice of supervising the implementation of remedial orders.[350]

Funding

Adequate funds should be made available to Aboriginal communities that wish to research and present relocation claims before the Canadian Human Rights Commission. Whether an Aboriginal community receives funding should be determined by a panel of advisers appointed by but independent of the CHRC. The *Canadian Human Rights Act* should be amended to authorize the commission to

establish such a panel. Since a great deal of research will have to be done, it is imperative that this money be made available quickly.

We propose a two-stage funding process. First, seed funding of up to $10,000 should be available to a community to conduct preliminary research into its claims, upon a decision of the advisory panel after a *prima facie* assessment of the merits of a seed funding application. We also recommend that federal, provincial and territorial governments co-operate with communities and the CHRC by opening their files on relocation to facilitate preliminary research.

Second, the advisory panel should be empowered to provide additional funding to an Aboriginal community when, in the panel's judgement, the community has a claim sufficiently serious to warrant inquiry by the CHRC. Such funding would enable further research and permit participation by community members and their representatives in the commission's hearings. While we anticipate a relatively informal hearing process, as well as an active role for commission researchers and staff in gathering and assessing serious claims, no doubt there will be significant costs associated with the hearing process that should not be borne by communities. Such costs can be assessed and compensated for by the same independent panel responsible for distributing seed funding.

The CHRC and legal action

Past relocations may well involve legal wrongs, such as breach of contract, breach of fiduciary duty, unjust enrichment and statutory and constitutional violations. Where the parties do not agree to mediation or arbitration of the dispute, or where the proposals of the CHRC have not been implemented to its satisfaction within an allotted time, we propose that the commission be empowered to apply, with the consent of the relevant community or communities, to an appropriate tribunal to obtain any appropriate measure against the government or to demand, in favour of the Aboriginal community or communities in question, any measure of redress it considers appropriate at that time.[351]

Future relocations

Future relocations of Aboriginal communities, as well as any relocations that have occurred since the enactment of the *Canadian Human Rights Act* in 1978, must not involve discriminatory practices prohibited by Part I of the act.[352] We propose that the act be amended to make it explicit that any relocation of an Aboriginal community occurring after 1978 that does not conform with the six criteria articulated previously constitutes a formal violation of the act. We also propose that Canada participate fully in efforts to develop further international standards to protect Indigenous peoples against arbitrary relocation and ensure that Canadian law incorporates the spirit and intent of relevant international norms, standards and covenants relating to relocation.

Recommendations

The Commission recommends that

Violation of Rights

1.11.1

Governments acknowledge that where the relocation of Aboriginal communities did not conform to the criteria set out in Recommendation 1.11.2, such relocations constituted a violation of their members' human rights.

Amend the *Canadian Human Rights Act*

1.11.2

Parliament amend the *Canadian Human Rights Act* to authorize the Canadian Human Rights Commission to inquire into, hold hearings on, and make recommendations on relocations of Aboriginal peoples to decide whether

(a) the federal government had proper authority to proceed with the relocations;
(b) relocatees gave their free and informed consent to the relocations;
(c) the relocations were well planned and carried out;
(d) promises made to those who were relocated were kept;
(e) relocation was humane and in keeping with Canada's international commitments and obligations; and
(f) government actions conformed to its fiduciary obligation to Aboriginal peoples.

15-Year Mandate

1.11.3

The Canadian Human Rights Commission be authorized to conduct inquiries into relocations, including those that occurred before the Commission's creation in 1978, and that with respect to the latter relocations, its mandate expire 15 years after coming into force.

Violation of the Act

1.11.4

Parliament amend the *Canadian Human Rights Act* to provide that it is a violation of the act if a relocation of an Aboriginal community does not conform to the six criteria listed in Recommendation 1.11.2, and that the provisions in Recommendation 1.11.11 apply in those circumstances where appropriate.

Alternative Dispute Mechanisms

1.11.5
The Canadian Human Rights Commission be authorized specifically to provide a range of alternative dispute resolution mechanisms, including mediation, facilitation, and consensual arbitration.

Powers

1.11.6
The Canadian Human Rights Commission be given subpoena powers with respect to documents, evidence and witnesses, and powers to compel testimony and appoint experts and counsel.

Remedies

1.11.7
The Canadian Human Rights Commission be given the authority to recommend a range of remedies to redress the negative effects of relocations, including

- provision for essential social infrastructure or services or special community initiatives;
- provision for relocatees to return to and re-establish in the home community;
- provision for visiting between separated families;
- funding of additional services, for example, to assist the readjustment of returnees, or all persons still adversely affected by the relocations;
- settlement of individual claims for compensation for, among other things, unpaid work done or services rendered during relocation and personal property lost or left behind; and
- costs, including future costs, incurred by relocatees or their representatives in attempting to resolve their complaints.

Public Reports

1.11.8
The Canadian Human Rights Commission be required to describe activity on relocation claims in its annual report and be authorized to make special reports as it sees fit and periodically review and report on action on its recommendations.

Governments Co-operate

1.11.9
Federal, provincial and territorial governments co-operate with communities and the Canadian Human Rights Commission by opening their files on relocation to facilitate research.

Funding for Communities

1.11.10
Aboriginal communities be given funding by the Canadian Human Rights Commission, upon decision of a panel of advisers appointed by but independent of the Commission, as follows:

(a) seed funding, of up to $10,000, to conduct preliminary research on their claims after *prima facie* assessment of the merits of their applications; and
(b) adequate additional funding when, in the panel's judgement, the communities have claims sufficient to warrant inquiry by the Commission.

Recourse to Courts

1.11.11
The Canadian Human Rights Commission be authorized to apply to an appropriate tribunal to obtain any appropriate measure against the government of Canada, or to demand in favour of the Aboriginal community or communities in question any measure of redress it considers appropriate at the time, where
(a) the parties will not agree to mediation or arbitration of the dispute; or
(b) proposals of the Commission have not been carried out within an allotted time to its satisfaction; and
(c) application to a tribunal or demand in favour of a community is with the consent of concerned communities.

International Standards

1.11.12
Canada participate fully in efforts to develop further international standards to protect Indigenous peoples against arbitrary relocation and ensure that Canadian law incorporates the spirit and intent of international norms, standards and covenants relating to relocation.

Repository of Records

1.11.13
The national repository for records on residential schools proposed in Recommendation 1.10.3 and its related research activities also cover all matters relating to relocations.

Notes

1. See Royal Commission on Aboriginal Peoples [RCAP], *The High Arctic Relocation: A Report on the 1953-55 Relocation* (Ottawa: Supply and Services, 1994).
2. Department of Indian Affairs and Northern Development, "Speaking Notes for the Honourable Ronald A. Irwin, Minister of Indian Affairs and Northern Development, to the Makivik Annual General Meeting", 29 March 1995, p. 3. On

28 March 1996 the minister announced that a reconciliation agreement had been reached with the Inuit who were relocated from northern Quebec to the High Arctic in the early 1950s.

3. RCAP, *Choosing Life: Special Report on Suicide Among Aboriginal People* (Ottawa: Supply and Services, 1995), p. 27.

4. These concepts are discussed in John L. Tobias, "Protection, Civilization, Assimilation: An Outline History of Canada's Indian Policy", *The Western Canadian Journal of Anthropology* 6/2 (1976), p. 14. See also Chapter 9.

5. The commissioned studies include Carol Brice-Bennett, "Dispossessed: The Eviction of Inuit from Hebron, Labrador"(1994); Virginia Petch, "The Relocation of the Sayisi Dene of Tadoule Lake" (1994); Ken Coates, "'Hardly a Grand Design': Aboriginal Resettlement in the Yukon Territory After World War II" (1994); Cliff Emery and Douglas Grainger, "You Moved Us Here... A Narrative Account of the Amalgamation and Relocation of the Gwa'Sala and 'Nakwaxda'xw Peoples" (1994); and Alan Rudolph Marcus, "Inuit Relocation Policies in Canada and Other Circumpolar Countries, 1925-1960", (1994). For information about research studies prepared for RCAP, see *A Note About Sources* at the beginning of this volume.

6. Discussions of the implications of relocation in an international context can be found in A.S. Al-Khasawneh and R. Hatano, *The Human Rights Dimensions of Population Transfer, Including the Implantation of Settlers* (New York: United Nations Economic and Social Council, Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities, 1993); and Christopher M. Goebel, "A Unified Concept of Population Transfer", *Denver Journal of International Law and Policy* 21/1 (1992), pp. 29-53. For a history of population transfer in general, see Sven Tägil, "From Nebuchadnezzar to Hitler: The Question of Mass Expulsion in History up to World War II", in *The Uprooted: Forced Migration as an International Problem in the Post-War Era*, ed. Göran Rystad (Lund, Sweden: Lund University Press, 1990). See also Thayer Scudder and Elizabeth Colson, "From Welfare to Development: A Conceptual Framework for the Analysis of Dislocated People", in *Involuntary Migration and Resettlement: The Problems and Responses of Dislocated People*, ed. A. Hausen and A. Oliver-Smith (Boulder, Colorado: Westview Press, 1982).

7. Thayer Scudder, *No Place to Go: Effects of Compulsory Relocation on Navajos* (Philadelphia: Institute for the Study of Human Issues, 1982), p. 10. See also Emily Benedek, *The Wind Won't Know Me: A History of the Navajo-Hopi Land Dispute* (New York: Alfred A. Knopf, 1992). For a powerful treatment of the dislocation of Australian Aborigines, see Paul R. Wilson, *Black Death, White Hands* (Sydney: George Allen & Unwin, 1982).

8. Transcripts of the Commission's hearings are identified by the speaker's name and affiliation, if any, and the location and dated of the hearing. See *A Note About Sources* at the beginning of this volume for information about transcripts and other RCAP publications.

9. Fred Wien, *Rebuilding the Economic Base of Indian Communities: The Micmac in Nova Scotia* (Halifax: Institute for Research on Public Policy, 1986), pp. 13, 16-17.
10. Wien, *Rebuilding*, p. 20.
11. W.S. Arneil, "Investigation Report on Indian Reserves and Indian Administration, Province of Nova Scotia" (Ottawa: Department of Mines and Resources, Indian Affairs Branch, August 1941).
12. Lisa Lynne Patterson, "Indian Affairs and the Nova Scotia Centralization Policy", M.A. thesis, Dalhousie University, Halifax, Nova Scotia, 1985, p. 3.
13. Thomas Gideon, quoted in Wien, *Rebuilding* (cited in note 9), p. 21. (Originally quoted by Donald Julien, "History of the Micmac Indians", unpublished manuscript, Institute of Public Affairs, Dalhousie University, Halifax, Nova Scotia, 1978, p. 28.)
14. Patterson, "Indian Affairs" (cited in note 12), p. 83.
15. Marie Battiste, quoted in Boyce Richardson, *People of Terra Nullius: Betrayal and Rebirth in Aboriginal Canada* (Vancouver/Toronto: Douglas & McIntyre, 1993), pp. 67, 68.
16. Patterson, "Indian Affairs" (cited in note 12), p. 91.
17. Patterson, "Indian Affairs", p. 78.
18. Patterson, "Indian Affairs", p. 84.
19. Patterson, "Indian Affairs", p. 85.
20. Patterson, "Indian Affairs", p. 89.
21. Wien, *Rebuilding* (cited in note 9), p. 21.
22. Wien, *Rebuilding*, p. 22.
23. Patterson, "Indian Affairs" (cited in note 12), pp. 57-58, 114.
24. Pierro Isadore, Wagmatcook, 1974-75, interviewed by Lillian Marshall and quoted in Patterson, "Indian Affairs", p. 144.
25. Grand Chief Donald Marshall, Sr., Grand Captain Alexander Denny and Putu's Simon Marshall, "The Mi'kmaq: The Covenant Chain", in *Drumbeat: Anger and Renewal in Indian Country*, ed. Boyce Richardson (Ottawa: Summerhill Press for the Assembly of First Nations, 1989), pp. 89-90.
26. Patterson, "Indian Affairs" (cited in note 12), pp. 150, 156.
27. The principal source for this section is Carol Brice-Bennett, "Dispossessed: The Eviction of Inuit from Hebron, Labrador", research study prepared for RCAP (1994).
28. Marcus, "Inuit Relocation Policies" (cited in note 5).
29. Augusta Erving, Happy Valley-Goose Bay, Labrador, interviewed by and quoted in Brice-Bennett, "Dispossessed" (cited in note 5).

30. Clara Ford, Makkovik, Labrador, interviewed by and quoted in Brice-Bennett, "Dispossessed".

31. Andrea Webb, Happy Valley-Goose Bay, Labrador, interviewed by and quoted in Brice-Bennett, "Dispossessed".

32. Ted Baird, Edmonton, Alberta, interviewed by and quoted in Brice-Bennett, "Dispossessed".

33. Brice-Bennett, "Dispossessed".

34. Walter Rockwood, Director of Northern Labrador Affairs, Government of Newfoundland and Labrador, quoted in Brice-Bennett, "Dispossessed".

35. Noel Iverson and D. Ralph Matthews, "Communities in Decline: An Examination of Household Resettlement in Newfoundland", in *Newfoundland Social and Economic Studies No. 6* (St. John's: Memorial University of Newfoundland, Institute of Social and Economic Research, 1968), p. 2.

36. Iverson and Matthews, "Communities in Decline", p. 2.

37. Brice-Bennett, "Dispossessed" (cited in note 5).

38. Public Archives of Newfoundland [PAN], Rockwood Collection, Letter from Reverend F.W. Peacock to W. Rockwood [a provincial government official], 20 September 1955, quoted in Brice-Bennett, "Dispossessed".

39. PAN, Rockwood Collection, Memo on Resettlement at Nutak, September 29, 1955, quoted in *Departmental Organization for the Administration of Labrador*, June 1959, cited in Brice-Bennett, "Dispossessed".

40. *Division of Northern Labrador Affairs* [Report for 1956], quoted in Brice-Bennett, "Dispossessed".

41. Brice-Bennett, "Dispossessed". The author had the original Inuktitut version of the letter retranslated and argues that the content of the two versions is substantially different.

42. Boas Jararuse, Makkovik, quoted in Brice-Bennett, "Dispossessed".

43. Brice-Bennett, "Dispossessed".

44. Quoted in Brice-Bennett, "Dispossessed".

45. Tony Williamson, quoted in Brice-Bennett, "Dispossessed".

46. Andrew Piercey, quoted in Brice-Bennett, "Dispossessed".

47. Brice-Bennett, "Dispossessed".

48. Brice-Bennett, "Dispossessed".

49. Brice-Bennett, "Dispossessed".

50. *Report of the Royal Commission on Labrador*, volume 6, The Role of the Government (St. John's: Government of Newfoundland and Labrador, 1974), p. 1209.

51. See, generally, Virginia Petch, "The Relocation of the Sayisi Dene of Tadoule Lake" (cited in note 5).

52. Stephen Thorassie, Chief, Sayisi Dene First Nation, Tadoule Lake, quoted in Bob Lowery, "Commissioner 'will go to bat' for Tadoule Dene", *Winnipeg Free Press*, 9 October 1993, p. A15.

53. National Archives of Canada [NAC], Record Group 10 [RG10], volume 4093, file 600 578/19-4-2, Garth C. Crockett, Superintendent-in-Charge, The Pas District, to Regional Director, 1 October 1969.

54. RCAP hearings, Thompson, Manitoba, 1 June 1993; RCAP special consultation, Tadoule Lake, Manitoba, 6-9 October 1993.

55. Crockett to Regional Director (cited in note 53).

56. Quoted in Douglas M. Skoog and Ian R. Macmillan, "Band Relocation Study", a report prepared for the Department of Indian and Northern Affairs (Windborn Consulting: no date [circa 1990]), p. 10.

57. Skoog and Macmillan, "Band Relocation Study", p. 84.

58. Petch, "Relocation of the Sayisi Dene" (cited in note 5).

59. Petch ("Relocation of the Sayisi Dene") says no correspondence regarding the fate of the material could be located.

60. NAC RG10, volume 4093, file 600 138/29-2, R.D. Ragan to J.R. Tully, Superintendent, Indian Agency, Ilford, Manitoba, 22 November 1956, p. 2.

61. Petch, "Relocation of the Sayisi Dene" (cited in note 5).

62. Skoog and Macmillan, "Band Relocation Study" (cited in note 56), p. 49.

63. NAC RG10, volume 4093, file 600 138-29-2, R.D. Ragan, Acting Regional Supervisor of Indian Agencies, to Colonel Jones, Director, Indian Affairs Branch, Department of Citizenship and Immigration, 27 July 1956, p. 1.

64. Petch, "Relocation of the Sayisi Dene" (cited in note 5).

65. Petch, "Relocation of the Sayisi Dene".

66. Eva Anderson, RCAP special consultation, Tadoule Lake, Manitoba, 6 October 1993.

67. Skoog and Macmillan, "Band Relocation Study" (cited in note 56), p. 43.

68. Marcus, "Inuit Relocation Policies" (cited in note 5).

69. Skoog and Macmillan, "Band Relocation Study" (cited in note 56), p. 10, quoting NAC RG10, volume 4064, file 407313.

70. Petch, "Relocation of the Sayisi Dene" (cited in note 5).

71. NAC RG10, volume 4093, file 600 135/29-2-2, Chief John Clipping to Archie Leslie, Regional Director, Indian Affairs, Manitoba, 26 July 1963, p. 2.

72. Petch, "Relocation of the Sayisi Dene" (cited in note 5).

73. Effie Thorassie, RCAP special consultation, Tadoule Lake, Manitoba, 6 October 1993.

74. Manitoba Keewatinowi Okimakanak, Inc., "Keewatinook Okimowin: Mechanisms and Solutions", brief to RCAP (November 1993), p. 139; and transcripts of the hearings of the Royal Commission on Aboriginal Peoples [hereafter RCAP transcripts], Montreal, 1 December 1993. For a discussion of the federal comprehensive claims policy, see Volume 2, Chapter 4, Lands and Resources.

75. Petch, "Relocation of the Sayisi Dene" (cited in note 5).

76. Dougald Brown, legal counsel to Nunavut Tungavik Inc. and the Keewatin Inuit Association, personal communication, 10 May 1995. The Inuit position is that article 40 of the Nunavut agreement provides "complete protection" for any rights the Sayisi Dene may have north of 60° and that the agreement provides legal protection for some rights where none existed before. Article 40, part 1 states that nothing in the agreement constitutes a surrender of Aboriginal or treaty rights by any non-Inuit group in the settlement area [40.1.2(a)]. Nor does it limit the ability of Inuit and other groups to negotiate overlap agreements [40.1.3]. Part 4 guarantees Sayisi Dene harvesting rights in the Nunavut region. See, generally, *Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada* (Ottawa: Tungavik Federation of Nunavut and Department of Indian Affairs and Northern Development, 1993).

77. Ravindra Lal, "From Duck Lake to Camp 10. Old Fashioned Relocation", *The Musk-Ox* 6 (Saskatoon: University of Saskatchewan, Institute for Northern Studies, 1969), p. 12 [emphasis in original].

78. Lal, "From Duck Lake", pp. 12-13.

79. See, generally, Ken Coates, "'Hardly a Grand Design': Aboriginal Resettlement in the Yukon Territory After World War II", research study prepared for RCAP (1994).

80. Janet Moodie Michael, *From Sissons to Meyer: The Administrative Development of the Yukon Government, 1948-1979* (Whitehorse: Government of the Yukon, Department of Education, 1987), p. 8.

81. By the time gold was discovered, disease is thought to have reduced the indigenous population already by two-thirds of its pre-contact size. See Ken S. Coates, *Best Left as Indians: Native-White Relations in the Yukon Territory, 1840-1973* (Montreal and Kingston: McGill-Queen's University Press, 1991), pp. 7-15.

82. Coates, "Hardly a Grand Design" (cited in note 79).

83. Jonathan L. Pierce, "Indian Land Claims in the Yukon, 1968-1984: Aboriginal Rights as Human Rights", Master's thesis, Carleton University, Ottawa, 1988, p. 32.

84. Julie Cruikshank, "The Gravel Magnet: Some Social Impacts of the Alaska Highway on Yukon Indians", paper presented to the Alaska Highway Conference, Fort St. John, B.C., 18-20 June 1982, p. 20.

85. The late Angela Sidney, quoted in Julie Cruikshank, in collaboration with Angela Sidney, Kitty Smith, and Annie Ned, *Life Lived Like a Story: Life Stories of Three Yukon Native Elders* (Lincoln: University of Nebraska Press, 1990), p. 135. Mrs. Sidney was a Tagish elder.

86. Coates, "Hardly a Grand Design" (cited in note 79).

87. NAC RG10, volume 1, file 801/30-0-01, W.S. Arneil to Indian Affairs Branch, 10 November 1953, quoted in Coates, "Hardly a Grand Design".

88. Alan Fry, letter to Ken Coates, quoted in "Hardly a Grand Design".

89. Coates, "Hardly a Grand Design".

90. NAC RG10, volume 1, file 8423/801/30-0-1, Brown to J.H. Gordon, 9 June 1954.

91. Fry to Coates (cited in note 88).

92. Coates, "Hardly a Grand Design" (cited in note 79).

93. See, generally, Cliff Emery and Douglas Grainger, "You Moved Us Here... A Narrative Account of the Amalgamation and Relocation of the Gwa'Sala and 'Nakwaxda'xw Peoples", research study prepared for RCAP (1994).

94. C. Gildersleeve, interviewed by Nowasad/Klaver (1985), quoted in Emery and Grainger, "You Moved Us Here".

95. Dara Culhane, "Tsulquate: The Demographic Story", unpublished report for the Tsulquate Band Council (Port Hardy, B.C.: 1984), p. 1.

96. Department of the Interior, *Annual Report of the Department of Indian Affairs for the year ended March 31, 1912*, Reports of Indian Agents, W.M. Halliday, Kwawkewlth Agency, Alert Bay, 31 March 1912, p. 223.

97. Culhane, "Tsulquate" (cited in note 95), p. 7.

98. Contrary to the perceptions of administrators at the time, one of the last residents of Takush, Robert Walkus, Sr., says the community was active and healthy before the relocation. Many people were employed in the fishery, and there were 30 boats, compared to the eight owned by community members in 1994. "I never had trouble finding any work. There was employment all year round. We never were dependent on the Government for anything. We were well off." Robert Walkus, Sr., quoted in Franka von Specht, "A Gillnetter's Journey on Land and Sea", *Awa'k'wis* 5/7 (July 1994), p. 3.

99. C. Roach, Superintendent, Kwawkewlth Agency, letter to J.V. Boys, Indian Commissioner, B.C. [n.d.] 1962, quoted in Emery and Grainger, "You Moved Us Here" (cited in note 93).

100. Emery and Grainger, "You Moved Us Here".

101. Chief G. Walkus, letter to Indian Agent, Alert Bay, 28 September 1952, quoted in Emery and Grainger, "You Moved Us Here".

102. Emery and Grainger, "You Moved Us Here".

103. This quotation, as well as much of the account in the next few pages, comes from Emery and Grainger, "You Moved Us Here".

104. Von Specht, "A Gillnetter's Journey" (cited in note 98), p. 3.

105. Culhane, "Tsulquate" (cited in note 95), pp. 24, 21, 24.

106. Culhane, "Tsulquate", p. 29.

107. H. Walkus, quoted in Emery and Grainger, "You Moved Us Here" (cited in note 93).

108. Von Specht, "A Gillnetter's Journey" (cited in note 98), p. 3.

109. Emery and Grainger, "You Moved Us Here" (cited in note 93).

110. Tshenish, an elder, quoted in The Innu Nation and the Mushuau Innu Band Council, *The People's Inquiry. Mamunitau Staianinimuanu: Ntuapatetau Tshetshi Uitshiakuts Stuassiminuts. Gathering Voices: Finding Strength to Help Our Children* (Utshimasits, Ntesinan, Labrador: June 1992), p. 11.

111. See, generally, Henry Youle Hind, *Explorations in the Interior of the Labrador Peninsula, The Country of the Montagnais and Nasquapee Indians*, two volumes (London: Longman, Green, Longman, Roberts & Green, 1863); and Adrian Tanner, *Indian Land Use and Land Tenure in Southern Labrador* (St. John's: Institute of Social and Economic Research, Memorial University of Newfoundland, 1977).

112. George Henriksen, "Report on the Social and Economic Development of the Innu Community of Davis Inlet to the Economic Recovery Commission" (University of Bergen, 1993), p. 3.

113. Donald M. McRae, *Report on the Complaints of the Innu of Labrador to the Canadian Human Rights Commission* (Ottawa: 1993), p. 34. McRae was appointed by the Canadian Human Rights Commission [CHRC] to investigate a number of complaints made by the Innu. While the report's conclusions and recommendations are McRae's, CHRC released the report and endorsed its contents.

114. *The People's Inquiry* (cited in note 110), p. 14.

115. *The People's Inquiry*, p. 15.

116. J. Roche, *Canada-Newfoundland Agreements[:] An Innu Perspective* (Sheshatshiu, Ntesinan: Innu Nation, 1992), pp. 1-12, 16, cited in Assembly of First Nations [AFN], "Violations of Law and Human Rights by the Governments of Canada and Newfoundland in Regard to the Mushuau Innu. A Documentation of Injustice in Utshimasits (Davis Inlet)", submission to the Canadian Human Rights Commission (1993), p. 3.

117. McRae, *Complaints of the Innu* (cited in note 113), pp. 6-7.

118. McRae, *Complaints of the Innu*, p. 35.

119. McRae, *Complaints of the Innu*, p. 36.

120. Innu Nation [Camille Fouillard], "Kamamuetimak: Tshentusentimak Nte Steniunu Utat, Nitshish, Kie Nte Nikan [Gathering Voices: Discovering Our Past, Present and Future]", research study prepared for RCAP (1993).

121. McRae, *Complaints of the Innu* (cited in note 113), p. 37.

122. McRae, *Complaints of the Innu*, p. 39.

123. McRae, *Complaints of the Innu*, p. 40.

124. *The People's Inquiry* (cited in note 110), p. 15.

125. McRae, *Complaints of the Innu* (cited in note 113), p. 41.

126. AFN, "Violations of Law and Human Rights" (cited in note 116), p. 26 [emphasis in original].

127. *The People's Inquiry* (cited in note 110), p. 16.

128. McRae, *Complaints of the Innu* (cited in note 113), p. 42.

129. McRae, *Complaints of the Innu*, p. 43.

130. McRae, *Complaints of the Innu*, p. 42.

131. McRae, *Complaints of the Innu*, p. 46.

132. Department of Indian Affairs and Northern Development [DIAND], "Irwin Releases Federal Commitments to Innu", news release (25 February 1994).

133. DIAND, "Minister issues update on progress in Davis Inlet", news release (26 April 1995), p. 1.

134. Frank James Tester and Peter Kulchyski, *Tammarniit (Mistakes): Inuit Relocation in the Eastern Arctic 1939-63* (Vancouver: UBC Press, 1994), p. 19.

135. Tester and Kulchyski, *Tammarniit*, p. 19.

136. RCAP, *The High Arctic Relocation* (cited in note 1), pp. 36-46.

137. Marcus, "Inuit Relocation Policies" (cited in note 5).

138. Department of the Interior, Annual Report 1935-36, p. 36.

139. Diamond Jenness, *Eskimo Administration: II, Canada*, Technical Paper No. 14 (Montreal: Arctic Institute of North America, 1964), p. 58.

140. Marcus, "Inuit Relocation Policies" (cited in note 5).

141. Tester and Kulchyski, *Tammarniit* (cited in note 134), p. 111. The authors also caution that the term 'experiment' must be seen in the context of the administrative culture of the day. The civil servants involved in northern administration considered that they were opening up the North "in a manner parallel to what had happened on the Prairies following Confederation..." (p. 119). Experiment, at least in this context, had noble rather than sinister connotations.

142. Marcus, "Inuit Relocation Policies" (cited in note 5).

143. RCAP, *High Arctic Relocation* (cited in note 1), p. 18. The post manager's influence is alluded to in an economic survey written in the late 1960s that touches upon the move and the people's unhappiness, though with little empathy:

> The Eskimo found rough ice chocking the harbour, which made sea mammal hunting difficult. The Hudson's Bay Company Manager dis-

> persed half the Eskimos to Croker Bay. The Cape Dorset and Pangnirtung Eskimos disliked the long winter period of darkness. The more superstitious of the Eskimo were also fearful during the dark period...The Hudson's Bay Company closed the post due to poor ice conditions and moved the Eskimos to Arctic Bay. (Don Bissett, "Northern Baffin Island: an area economic survey", volume 2 of the Northern Baffin Island Report [Ottawa: Department of Indian Affairs and Northern Development, Industrial Division, November 1968], p. 36.)

144. RCAP, *High Arctic Relocation*, p. 18.

145. Richard Diubaldo, *The Government of Canada and the Inuit, 1900-1967* (Ottawa: Research Branch, Corporate Policy, Indian and Northern Affairs Canada, 1985), p. 119.

146. Marcus, "Inuit Relocation Policies" (cited in note 5).

147. Jenness, *Eskimo Administration* (cited in note 139), p. 62.

148. Peter Clancy, "Contours of the Modern State in the Territorial North: Policies, Institutions and Philosophies", research study prepared RCAP (1994).

149. Peter Clancy, "The Making of Eskimo Policy in Canada, 1952-62: The Life and Times of the Eskimo Affairs Committee", *Arctic* 40/3 (September 1987), p. 191. See also Frances Abele, "Canadian Contradictions: Forty Years of Northern Political Development", *Arctic* 40/4 (December 1987), pp. 310-320. We also discuss the development of northern policy administration as it affects Aboriginal people in the North in Volume 4, Chapter 6.

150. Clancy, "Contours of the Modern State" (cited in note 148).

151. Clancy, "Contours of the Modern State".

152. NAC RG22, volume 254, file 40-8-1, volume 2 (1949-1952), "The Future of the Canadian Eskimo", 15 May 1952, p. 1.

153. NAC RG22, volume 254, file 40-8-1, part 4, Minutes of a Meeting held at 10:00 a.m., August 10, 1953, in Room 304, Langevin Block, to Discuss the Transfer of Certain Eskimo Families from Northern Quebec to Cornwallis and Ellesmere Islands.

154. This policy development is discussed at some length in *The High Arctic Relocation* (cited in note 1), pp. 60-65. See also Clancy, "The Making of Eskimo Policy" (cited in note 149).

155. Marcus, "Inuit Relocation Policies" (cited in note 5), pp. 12-14.

156. Tester and Kulchyski, *Tammarniit* (cited in note 134), p. 218.

157. Marcus, "Inuit Relocation Policies" (cited in note 5).

158. Tester and Kulchyski, *Tammarniit* (cited in note 134), p. 220.

159. Marcus, "Inuit Relocation Policies" (cited in note 5).

160. NAC RG22, volume 335, file 40-8-14/1, Graham Rowley to Gordon Robertson, Memorandum for the Deputy Minister, 22 January 1958, quoted in Marcus, "Inuit Relocation Policies".

161. NAC RG22, volume 1511, file 1000-179/2, R.A.J. Phillips to Gordon Robertson, Memorandum for the Deputy Minister, 15 January 1958, quoted in Marcus, "Inuit Relocation Policies".

162. Diubaldo, *The Government of Canada and the Inuit* (cited in note 145), p. 33 [emphasis in original].

163. Robert G. Williamson and Terrence W. Foster, "Eskimo Relocation in Canada" (Ottawa: Social Research Division, DIAND, 1974), p. 13.

164. Marcus, "Inuit Relocation Policies" (cited in note 5).

165. Williamson and Foster, "Eskimo Relocation" (cited in note 163), p. 13.

166. The use of the term 'colony' may sound odd, but it originated with civil servants who entered public service in the 1930s and felt they were doing work similar to the pioneering on the prairies of the nineteenth century. The term disappeared when they retired in the 1960s. See Tester and Kulchyski, *Tammarniit* (cited in note 134), p. 186.

167. Janet Mancini Billson, "Opportunity or Tragedy: The Impact of Canadian Resettlement Policy on Inuit Families", *American Review of Canadian Studies* 20/2 (Summer 1990), p. 192.

168. Billson, "Opportunity or Tragedy", p. 192.

169. Billson, "Opportunity or Tragedy", p. 198.

170. Billson, "Opportunity or Tragedy", pp. 213-214.

171. Tester and Kulchyski, *Tammarniit* (cited in note 134), p. 308.

172. NAC RG85, volume 1514, file 1012-1, part 6, Minutes of the Seventh Meeting of the Committee on Eskimo Affairs, 28 May 1956, pp. 9-10, quoted in Tester and Kulchyski, *Tammarniit*, p. 310.

173. Tester and Kulchyski, *Tammarniit*, p. 312.

174. Diubaldo, *The Government of Canada and the Inuit* (cited in note 145), p. 128.

175. Diubaldo, *The Government of Canada and the Inuit*, pp. 129-130.

176. Tester and Kulchyski, *Tammarniit* (cited in note 134), p. 317, quoting letters from NAC RG85, volume 314, file 1012-8, volume 3, letters from Rosie, p. 1, and Tommy, p. 1.

177. Tester and Kulchyski, *Tammarniit*, p. 318.

178. NAC RG85, volume 1382, file 1012-13, part 5, Minutes of the meeting held November 18 [1958] at 10:30 a.m., in the conference room to discuss resource studies for the proposed relocation of Eskimos, p. 1, quoted in Tester and Kulchyski, *Tammarniit*, p. 319.

179. Northwest Territories Archives (NWTA), N92-023, Alex Stevenson Papers, Box 10, Confidential Memorandum to the Director: Relocation of Eskimo Groups in the High Arctic, from C.M. Bolger, Administrator of the Arctic, 15 November 1960.

180. NWTA, N92-023, Alex Stevenson Papers, Box 5, Relocation of Inuit people, Inuit Relocation Appendix B, A. Stevenson, November 1977.

181. Clarence S. Brigham, ed., *British Royal Proclamations Relating to America*, Transactions and Collections of the American Antiquarian Society (Worcester, Mass.: American Antiquarian Society, 1911), volume 12, pp. 212-218. See also our discussion of the Royal Proclamation in RCAP, *Partners in Confederation: Aboriginal Peoples, Self-Government, and the Constitution* (Ottawa: Supply and Services, 1993). For an analysis of the relationship between colonial policies and current government policies dealing with extinguishment and land claims, see RCAP, *Treaty Making in the Spirit of Co-existence: An Alternative to Extinguishment* (Ottawa: Supply and Services, 1995).

182. *Journal of the Legislative Assembly 1844-45*, Appendix EEE, section 1, quoted in Peter S. Schmalz, *The History of the Saugeen Indians*, Ontario Historical Society Research Publication No. 5 (1977), p. 60.

183. Schmalz, *History of the Saugeen Indians*, pp. 63-64.

184. Schmalz, *History of the Saugeen Indians*, p. 73.

185. Peter S. Schmalz, *The Ojibwa of Southern Ontario* (Toronto: University of Toronto Press, 1991), p. 131.

186. Schmalz, *Ojibwa of Southern Ontario*, p. 143. As we will see, individual surrenders would be used as a strategy in the Cheslatta surrender almost 100 years later.

187. Schmalz, *History of the Saugeen Indians* (cited in note 182), p. 85.

188. Schmalz, *Ojibwa of Southern Ontario* (cited in note 185), p. 145.

189. Dennis Madill, *British Columbia Indian Treaties in Historical Perspective* (Ottawa: Research Branch, Corporate Policy, Indian and Northern Affairs Canada, 1981), p. 8.

190. Walter N. Sage, *Sir James Douglas and British Columbia* (Toronto: University of Toronto Press, 1930), p. 121.

191. Louise Mandell, "Aboriginal Urban Land Base", research study prepared for RCAP (1993).

192. British Columbia, *Papers Connected with the Indian Land Question, 1850-1875* (Victoria: Government Printer, 1875), p. 6. The village site was on the western shore of Victoria harbour.

193. Mandell, "Aboriginal Urban Land Base" (cited in note 191).

194. Mandell, "Aboriginal Urban Land Base".

195. J.W. Trutch, Memorandum as to the Songish Indian Reserve at Victoria, 30 December 1869, in British Columbia, *Papers* (cited in note 192), p. 66. In February

1859, the *British Colonist* published a series of anonymous letter demanding the removal of all Aboriginal people from Victoria. See Robin Fisher, *Contact and Conflict: Indian-European Relations in British Columbia, 1774-1890* (Vancouver: University of British Columbia Press, 1977), pp. 111-115.

196. Madill, *British Columbia Indian Treaties* (cited in note 189), p. 29.

197. Statutes of Canada, 1-2 George V, chapter 14, 19 May 1911, pp. 225-227, "An Act Respecting the Songhees Indian Reserve", Bill No. 179.

198. House of Commons, *Official Report of the Debates of the House Commons of the Dominion of Canada*, Third Session, Eleventh Parliament, 1-2 George V, 1910-11 (Ottawa: King's Printer, 1911), column 7826.

199. House of Commons, *Debates*, columns 7827-7828.

200. House of Commons, *Debates*, column 7829.

201. House of Commons, *Debates*, columns 7832-7833.

202. House of Commons, *Debates*, columns 7833-7835.

203. House of Commons, *Debates*, columns 7854-7855.

204. Ken Zeilig and Victoria Zeilig, *Ste. Madeleine, Community Without a Town, Metis Elders in Interview* (Winnipeg: Pemmican Publications Inc., 1987), p. viii. This crucial period in Métis history is also examined in Volume 4, Chapter 5.

205. Department of Agriculture, *PFRA, Prairie Farm Rehabilitation Act, What it means to the Prairie Provinces*, Publication No. 1138 (October 1961), p. 33.

206. Zeilig and Zeilig, *Ste. Madeleine* (cited in note 204), p. xii.

207. Zeilig and Zeilig, *Ste. Madeleine*, p. 163.

208. Zeilig and Zeilig, *Ste. Madeleine*, p. 191.

209. Zeilig and Zeilig, *Ste. Madeleine*, pp. 191-192.

210. Zeilig and Zeilig, *Ste. Madeleine*, p. 119.

211. Murray Rankin, "Alcan's Kemano Project: Options and Recommendations", Report to the Honourable Mike Harcourt, Premier of British Columbia (October 1992), pp. 12-17. Alcan was given water rights until 1999 with an option to build a completion project during this period. This option was exercised when Alcan launched negotiations for Kemano II in 1972. In January 1995 the British Columbia government rejected the Kemano Completion Project.

212. Rankin, "Alcan's Kemano Project", p. 14.

213. Dick Byl, "The Cheslatta Surrender. A Legal Analysis of a Surrender Given by the Cheslatta Carrier Nation to Her Majesty in Right of the Government of Canada on the 21st of April 1952" (August 1992, second printing), p. 10.

214. Byl, "Cheslatta Surrender", p. 39.

215. Robert Howe, Indian agent, report of surrender meeting, April 28, 1952, quoted in Byl, "Cheslatta Surrender", p. 48.

216. W.J. MacGregor, regional supervisor, Indian affairs department, account of surrender of April 1952, quoted in Byl, "Cheslatta Surrender", p. 49.

217. Cheslatta band resolution, 21 April 1952, quoted in Mike Robertson, "The Story of the Surrender of the Cheslatta Reserves on April 21, 1952" (1991, unpublished), p. 4.

218. Byl, "Cheslatta Surrender" (cited in note 213), p. 47.

219. Byl, "Cheslatta Surrender", p. 55.

220. Robert Howe, Indian agent, letter to Indian affairs superior, 6 April 1952, quoted in Byl, "Cheslatta Surrender", p. 39.

221. Byl, "Cheslatta Surrender", p. 61.

222. Robertson, "Surrender of the Cheslatta" (cited in note 217), p. 5.

223. Thomas Peter, letter to the department of veterans affairs, August 1952, quoted in Byl, "Cheslatta Surrender" (cited in note 213), p. 69.

224. Byl, "Cheslatta Surrender", p. 70.

225. Byl, "Cheslatta Surrender", p. 65.

226. Robertson, "Surrender of the Cheslatta" (cited in note 217), p. 5.

227. Quoted in Byl, "Cheslatta Surrender" (cited in note 213), p. 110.

228. Byl, "Cheslatta Surrender", p. 3.

229. Andrew de Schulthess, Director, Government Relations, Alcan Aluminum Limited, letter to Royal Commission on Aboriginal Peoples, 10 May 1995, p. 2.

> In a July 1991 letter to Chief Marvin Charlie, Alcan Vice-President W.J. Rich asked the Chief to "discourage any activity in the area which would be adversely affected by the traditional manner of operating the Skins Lake Spillway." (W.J. Rich, Vice-President for British Columbia, Alcan Smelters and Chemicals Limited, letter to Chief Marvin Charlie, Cheslatta Indian Band, 4 July 1991 [letter supplied by Alcan].)

230. Robertson, "Surrender of the Cheslatta" (cited in note 217), p. 5.

231. Dana Wagg, "The Cheslatta Story: In Brief" (Cheslatta T'en: 1993), p. 2.

232. Robertson, "Surrender of the Cheslatta" (cited in note 217), p. 11. The figure of $7.4 million "represents the 1993 value of what the band understood it would receive in 1952, along with compensation for a church lost to flooding and damages done to ancestral graveyards eroded by water." Department of Indian Affairs and Northern Development, Specific Claims West, *Cheslatta Carrier First Nation Specific Claim Settlement: A Case Study in Successful Negotiation* (Vancouver: 17 January 1995), p. 5. The comprehensive claim and certain other issues remain outstanding, however.

233. Rankin, "Alcan's Kemano Project" (cited in note 211), p. 49.

234. James B. Waldram, *As Long as the Rivers Run: Hydroelectric Development and Native Communities in Western Canada* (Winnipeg: University of Manitoba Press, 1988), pp. 40-42.

235. Waldram, *As Long as the Rivers Run*, pp. 84-85.

236. Waldram, *As Long as the Rivers Run*, pp. 85-86.

237. Quoted in Martin Loney, "The Construction of Dependency: The Case of the Grand Rapids Hydro Project", *Canadian Journal of Native Studies* 7/1 (1987), p. 62. See also Michael J. Landa, "Easterville: A Case Study in the Relocation of a Manitoba Native Community", Master's thesis, University of Manitoba, 1969, pp. 38-43.

238. S.E. Sigurdson, "A Report of the Economy of Cedar Lake and Moose Lake", prepared for the Grand Rapids Forebay Economic Committee (1963, unpublished), p. 13, quoted in Loney, "Construction of Dependency", pp. 62-63.

239. Manitoba Development Authority, "Chemawawin and Moose Lake" (1961), p. 5, quoted in Loney, "Construction of Dependency", p. 63.

240. Waldram, *As Long as the Rivers Run* (cited in note 234), p. 86.

241. Landa, "Easterville" (cited in note 237), p. 46.

242. Waldram, *As Long as the Rivers Run* (cited in note 234), p. 87.

243. Loney, "Construction of Dependency" (cited in note 237), p. 65.

244. Waldram, *As Long as the Rivers Run* (cited in note 234), p. 89.

245. Landa, "Easterville" (cited in note 237), p. 65.

246. Loney, "Construction of Dependency" (cited in note 237), pp. 65-66.

247. Waldram, *As Long as the Rivers Run* (cited in note 234), p. 101. Waldram makes no mention of whether a surrender vote was taken; nor does Loney or Landa.

248. Lake Winnipeg, Churchill and Nelson Rivers Study Board [LWCNRSB], *The Chemawawin Relocation*, Social and Economic Studies 2/8, appendix H (1974), p. 224, quoted in Waldram, *As Long as the Rivers Run*, p. 102.

249. NAC RG10, volume 7989, file 578/30-44-31A, volume 2, A.G. Leslie to R.F. Battle, 4 February 1964, quoted in Waldram, *As Long as the Rivers Run*, p. 102.

250. LWCNRSB, *The Chemawawin Relocation*, p. 227, quoted in Waldram, *As Long as the Rivers Run*, p. 103.

251. Waldram, *As Long as the Rivers Run*, p. 103.

252. Forebay Administration Committee, Province of Manitoba, Department of Mines and Natural Resources, Deputy Minister's Office, letter to Chief Donald Easter, Chemawawin Indian Band, 7 June 1962, included as Appendix 2, "The Forebay Agreement", in Waldram, *As Long as the Rivers Run*.

253. Waldram, *As Long as the Rivers Run*, p. 105.

254. NAC RG10, volume 7989, file 578/19-4-1, part 1, A.G. Leslie, memorandum to Indian Affairs Branch, Ottawa, 10 August 1960, quoted in Waldram, *As Long as the Rivers Run*, p. 90 [Waldram's emphasis].

255. Landa, "Easterville" (cited in note 237), p. 46.

256. Waldram, *As Long as the Rivers Run* (cited in note 234), p. 91.

257. S. Jacobson, "Social Adjustment to a public power project: An analysis of the resettlement of the Chemawawin Band", report for the Federal Provincial Coordinating Committee (1966, unpublished), p. 8, quoted in Loney, "Construction of Dependency" (cited in note 237), p. 72.

258. Loney, "Construction of Dependency", p. 67.

259. Quoted in Landa, "Easterville" (cited in note 237), pp. 58-59.

260. Loney, "Construction of Dependency", p. 68.

261. Jacobson, "Social adjustment to a public power project", p. 3, quoted in Loney, "Construction of Dependency", p. 72.

262. Indian affairs representative Bell to A.G. Leslie, 21 January 1961, quoted in Loney, "Construction of Dependency", p. 68.

263. Waldram, *As Long as the Rivers Run* (cited in note 234), p. 97.

264. Quoted in Waldram, *As Long as the Rivers Run*, p. 91.

265. Loney, "Construction of Dependency" (cited in note 237), p. 58.

266. Loney, "Construction of Dependency", p. 69.

267. Loney, "Construction of Dependency", p. 70.

268. Landa, "Easterville" (cited in note 237), p. 68.

269. David Henderson, former director of planning, province of Manitoba, quoted in Loney, "Construction of Dependency" (cited in note 237), p. 71.

270. Loney, "Construction of Dependency", p. 72.

271. Loney, "Construction of Dependency", p. 73.

272. Clem Chartier, "Métis Lands and Resources", in Royal Commission on Aboriginal Peoples, *Sharing the Harvest: The Road to Self-Reliance*, Report of the National Round Table on Aboriginal Economic Development and Resources (Ottawa: Supply and Services, 1993), p. 70.

273. RCAP, transcripts, special hearings on the High Arctic relocation, Ottawa, 30 June 1993.

274. R.G. Williamson, "Significant Aspects of Acculturation History in the Canadian Arctic, Analysis of the Forces of Inuit and Southern White Interaction until Mid-Century, Socio-Cultural Background to a Government Relocation Project", research study prepared for RCAP (1994).

275. Williamson, "Significant Aspects", p. 15.

276. Russell (1978), quoted in Marcus, "Inuit Relocation Policies" (cited in note 5).

277. Emery and Grainger, "You Moved Us Here" (cited in note 5).

278. Scudder and Colson, "From Welfare to Development" (cited in note 6), p. 271.

279. Brice-Bennett, "Dispossessed" (cited in note 5).

280. Landa, "Easterville" (cited in note 237), pp. 67-68.

281. Quoted in Landa, "Easterville", p. 57.

282. Interdisciplinary Systems, "Report to the Grand Rapids Special Forebay Committee - Vol. II" (1978), section 5.9, pp. 3-4, quoted in Loney, "Construction of Dependency" (cited in note 237), p. 70.

283. Petch, "Relocation of the Sayisi Dene" (cited in note 5).

284. Coates, "Hardly a Grand Design" (cited in note 5).

285. See RCAP, *Choosing Life* (cited in note 3), pp. 21, 25 and note 32, for a discussion of culture stress and references to research on the subject.

286. Billson, "Opportunity or Tragedy" (cited in note 167), pp. 205-207.

287. Petch, "Relocation of the Sayisi Dene" (cited in note 5).

288. Byl, "Cheslatta Surrender" (cited in note 213), p. 11.

289. Emery and Grainger, "You Moved Us Here" (cited in note 5).

290. Brice-Bennett, "Dispossessed" (cited in note 5).

291. Quoted in Brice-Bennett, "Dispossessed".

292. Quoted in Brice-Bennett, "Dispossessed".

293. Quoted in Brice-Bennett, "Dispossessed".

294. Landa, "Easterville" (cited in note 237), p. 57.

295. Patterson, "Indian Affairs" (cited in note 12), p. 113.

296. Emery and Grainger, "You Moved Us Here" (cited in note 5).

297. Al-Khasawneh and Hatano, *Human Rights Dimensions* (cited in note 6), p. 22.

298. NAC RG10, volume 4093, file 600 578\29-1-2(A), To J.B. Bergevin, Assistant Deputy Minister, Indian and Eskimo Affairs, Ottawa, from R.M. Connelly, Regional Director, Manitoba, "Dene Village – Churchill", 19 May 1971, p. 2.

299. Scudder and Colson, "From Welfare to Development" (cited in note 6), p. 270.

300. Culhane, "Tsulquate" (cited in note 95), p. 24.

301. Epec Consulting Ltd., "Whitehorse Indian Village Relocation Study", a report prepared for DIAND, 20 August 1973, p. 11.

302. Interdisciplinary Systems, "Report to the Grand Rapids Special Forebay Committee" (cited in note 282), p. 7.

303. Loney, "Construction of Dependency" (cited in note 237), pp. 71-72.

304. Brice-Bennett, "Dispossessed" (cited in note 5).

305. Boas Jararuse, Makkovik, quoted in Brice-Bennett, "Dispossessed".

306. Thomas R. Berger, *Northern Frontier: Northern Homeland*, Report of the Mackenzie Valley Pipeline Inquiry, volume 1 (Ottawa: Supply and Services, 1977), p. 159, quoting testimony to the inquiry from Pat Kehoe, a psychologist practising in the Yukon.

307. Scudder and Colson, "From Welfare to Development" (cited in note 6), p. 270.

308. Billson, "Opportunity or Tragedy" (cited in note 167), p. 207.

309. James B. Waldram, "Relocation and Social Change among the Swampy Cree and Metis of Easterville, Manitoba", Master's thesis, University of Manitoba, 1980, p. 168.

310. Al-Khasawneh and Hatano, *Human Rights Dimensions* (cited in note 6), p. 23.

311. Emery and Grainger, "You Moved Us Here" (cited in note 5).

312. Landa, "Easterville" (cited in note 237), pp. 62-64.

313. Petch, "Relocation of the Sayisi Dene" (cited in note 5).

314. Petch, "Relocation of the Sayisi Dene".

315. Ernie Bussidor, submission to RCAP, special consultation, Tadoule Lake, Manitoba, 8 October 1993.

316. Brian Smith, "Youth Perspectives, Wabaseemoong Community Case Study", research study prepared for RCAP (1994).

317. RCAP, *The High Arctic Relocation* (cited in note 1), p. xii.

318. "Speaking Notes" (cited in note 2), pp. 2-3.

319. Al-Khasawneh and Hatano, *Human Rights Dimensions* (cited in note 6), p. 81.

320. RCAP, *High Arctic Relocation* (cited in note 1), p. 160.

321. RCAP, *High Arctic Relocation*, p. 159

322. RCAP, *High Arctic Relocation*, p. 150.

323. RCAP, *High Arctic Relocation*, p. 155.

324. Al-Khasawneh and Hatano, *Human Rights Dimensions* (cited in note 6), p. 83 [emphasis added].

325. *Sparrow* v. *The Queen*, [1990] 1 S.C.R. 1075 at 1108.

326. *Norberg* v. *Wynrib*, [1992] 2 S.C.R. 226, pp. 304, 306, 250; (1992), 92 D.L.R. (4th), pp. 449, 460.

327. United Nations, Economic and Social Council, Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities, *The human rights dimensions of population transfer, including the implantation of settlers. Progress report prepared by Mr. Awn Shawhat Al-Khasawneh, Special Rapporteur* (E/CN.4/Sub.2/1994/18, 30 June 1994), p. 35.

328. World Bank, *The World Bank Operational Manual, Operational Directive 4.30, Involuntary Resettlement* (June 1990), p. 1 [emphasis added]. The bank has been widely criticized for ignoring its own guidelines.

    For example, in the case of the Sardar Sarovar dam in India, disputes between the bank, national government and several affected state governments led to the formation of a special review committee. It found that the governments' failure to live up to agreements with the bank, and the bank's "failure to enshrine its policies in the agreements, means that involuntary settlement resulting from the Sardar Sarovar Projects offends recognized norms of human rights". (Bradford Morse, Thomas R. Berger et al., *Sardar Sarovar: Report of the Independent Review* (Ottawa: Resource Futures International (RFI) Inc., 1992), p. xx.)

    In the case of the Three Gorges dam in China, another bank-funded project, studies of the effects on relocatees have been criticized for being biased and unrealistic. (Philip M. Fearnside, "The Canadian feasibility study of the Three Gorges dam proposed for China's Yangzi River: A grave embarrassment to the impact assessment profession", *Impact Assessment* 12/1 (Spring 1994), pp. 21-55.)

329. Roger Plant, *Land Rights for Indigenous and Tribal Peoples in Developing Countries: A Survey of Law and Policy Issues, Current Activities, and Proposals for an Inter-Agency Programme of Action*, working paper prepared for the Second United Nations Inter-Agency Technical Consultation on Indigenous and Tribal Peoples, ILO, Geneva, 3-4 December 1991 (Geneva: International Labour Office, 1991), pp. 60-61.

330. *Report of the Royal Commission on Labrador* (cited in note 50), pp. 1209-1210.

331. See, generally, Ontario Law Reform Commission, *Report on Public Inquiries* (Toronto: 1992).

332. R.S.C. 1985, chapter I-11, sections 2 and 6. Under either type of inquiry, commissioners can be given certain powers to compel testimony and to produce documents, as well as to appoint experts and counsel to assist them and take evidence (sections 4, 5, 8, and 11).

333. Frank Iacobucci, "Commissions of Inquiry and Public Policy in Canada", in *Commissions of Inquiry*, ed. A. Paul Pross, Innis Christie, and John A. Yogis (Toronto: Carswell, 1990), p. 28 (public inquiries benefit from flexibility). See also A. Wayne Mackay, "Mandates, Legal Foundations, Powers and Conduct of Commissions of Inquiry", in the same book, published as the *Dalhousie Law Journal* 12/3 (January 1990); and R.A. Macdonald, "The Commission of Inquiry in the Perspective of Administrative Law", *Alberta Law Review* 18/3 (1980), p. 366.

334. See, generally, Michael J. Trebilcock, Douglas G. Hartle, J. Robert S. Prichard and Donald N. Dewees, *The Choice of Governing Instrument*, study prepared for the

Economic Council of Canada (Ottawa: Supply and Services, 1982), providing an analytical framework for assessing the merits of establishing a public inquiry.

335. *Canada (A.G.)* v. *Mossop*, [1993] 1 S.C.R. 554, p. 609 (dissenting on other grounds).

336. *Insurance Corp. of B.C.* v. *Heerspink*, [1982] 2 S.C.R. 145, pp. 157-158.

337. Canadian Human Rights Commission [CHRC], *Annual Report 1991* (Ottawa: Supply and Services, 1992), p. 16.

338. CHRC, *Annual Report 1994* (Ottawa: Supply and Services, 1995), p. 27.

339. Section 27(1) provides that

> 27. (1) In addition to its duties under Part III with respect to complaints regarding discriminatory practices, the Commission is generally responsible for the administration of this Part and Parts I and II and...
> (e) may consider such recommendations, suggestions and requests concerning human rights and freedoms as it receives from any source and, where deemed by the Commission to be appropriate, include in a report referred to in section 61 reference to and comment on any such recommendation, suggestion or request;...
> (g) may review any regulations, rules, orders, by-laws and other instruments made pursuant to an Act of Parliament and, where deemed by the Commission to be appropriate, include in a report referred to in section 61 reference to and comment on any provision thereof that in its opinion is inconsistent with the principle described in section 2.

340. The formal remedial authority of the CHRC is restricted to complaints substantiated at the conclusion of a hearing of a Human Rights Tribunal assigned to hear a complaint under section 49 of the act.

341. See subsections 27(1)(e) and (g) (quoted in note 339).

342. CHRC, *Annual Report 1979* (Ottawa: Supply and Services, 1980), p. 3. Moreover, section 61 of the act provides for the mandatory transmission of an annual report to the minister of justice and gives the commission discretion to issue

> a special report referring to and commenting on any matter within the scope of its powers, duties functions where, in its opinion, the matter is of such urgency or importance that a report thereon should not be deferred until the time provided for transmission of its next annual report...

Any report issued by the Human Rights Commission must ultimately be placed before Parliament. Section 61(3) provides that

> The Minister shall cause any report transmitted to the Minister pursuant to this section to be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the day the Minister receives it.

343. D. Soberman, "Report to the Canadian Human Rights Commission on the Complaints of the Inuit People Relocated from Inukjuak and Pond Inlet, to Grise Fiord and Resolute Bay in 1953 and 1955" (11 December 1991), p. 1.

344. See McRae, *Complaints of the Innu* (cited in note 113).

345. Soberman, "Report to the Canadian Human Rights Commission" (cited in note 343), p. 2.

346. *Canada (Treasury Board)* v. *Robichaud (No. 2)* (1990), 11 C.H.H.R. D/194 at D/203. For apologies sought from government departments and agencies, see *Naqvi* v. *Canada (Employment and Immigration Comm.)* (1994), 19 C.H.R.R. D/139; and *Canadian Paraplegic Association* v. *Canada (Elections Canada) (No.2)* (1992), 16 C.H.R.R. D/341. See, generally, S.N. Lederman and M.E. Grottenthaler, "The Evolving Public Policy Elements of Remedies for Human Rights Code Violations", in *Remedies: Issues and Perspectives*, ed. Jeffrey Berryman (Toronto: Carswell, 1991), p. 338.

347. See, for example, *Ontario Human Rights Commission* v. *Simpson-Sears Ltd.*, [1985] 2 S.C.R. 536; *Bhinder* v. *Canadian National Railway Company*, [1985] 2 S.C.R. 561.

348. *Ontario Human Rights Commission* v. *Simpson-Sears Ltd.*, p. 547.

349. Compare *Canadian National Railway Company* v. *Canada (Human Rights Commission)*, [1987] 1 S.C.R. 1114, p. 1142, per Dickson C.J. ("Unlike the remedies in s. 41(2)(b)-(d) [now s. 53(2)(b)-(d)], the "remedy" under s. 41(2)(a) [now section 53(2)(a)] is directed towards a group and is therefore not merely compensatory but is itself prospective. The benefit is always designed to improve the situation for the group in the future".)

350. *Grover* v. *National Research Council* (1992), Canadian Human Rights Tribunal, 29 July 1992; and Federal Court of Canada, Trial Division, 1994, Court No. T-1945-93 and T-775-94.

351. Compare Quebec's *Charter of Human Rights and Freedoms*, R.S.Q. chapter C-12, section 80:

> 80. Where the parties will not agree to negotiation of a settlement or to arbitration of the dispute or where the proposal of the commission has not been implemented to its satisfaction within the allotted time, the commission may apply to a tribunal to obtain, where consistent with the public interest, any appropriate measure against the person at fault or to demand, in favour of the victim, any measure of redress it considers appropriate at that time.

352. By contrast, the act does not provide expressly for the retroactive application of its provisions, and there is a general presumption against retroactivity. *Gustavson Drilling (1964) Ltd.* v. *M.N.R.*, [1977] 1 S.C.R. 271, p. 279, per Dickson J. As a result, the commission appears not to have jurisdiction to adjudicate formal complaints of discrimination, including complaints that refer to relocations, that occurred before the act came into force in 1978.

12

Veterans

Aboriginal peoples and European nations had a history of alliances embodied in treaties before the twentieth century. As discussed in some detail in the first part of this volume, these were a continuation of the earlier practice of alliances among Aboriginal nations themselves.[1] To cite one prominent example, the art and protocol of alliance making were highly developed among the Five (later Six) Nations of the Iroquois. In this tradition, reciprocal duties and obligations were clearly delineated and confirmed through spiritual and temporal ceremonies. An alliance was more than a political agreement or a simple affirmation of partnership. It was an arrangement perceived as embodying a sense of balance among members and an important spiritual dimension; it was a bond of mutual obligations held together by honour.

When Aboriginal peoples allied with and fought alongside Europeans, they approached these alliances from their traditional perspective. This was borne out during the seventeenth and eighteenth centuries, when Europeans seemed to reciprocate. They encouraged Aboriginal peoples to regard the new alliances with them as in the tradition of those they had forged previously among themselves. Thus, in order to secure these valuable and often essential allies in the name of their respective Crowns, the French and the British (and, later, British and United States military leaders) adopted elements of Aboriginal protocol in their alliance-making practices with them.

The Aboriginal concept of alliance with the newcomers, begun in what is now central and eastern Canada, was carried into the series of treaties concluded in the Canadian plains after Confederation. Here, too, Aboriginal protocol was accepted, the agreements were considered to have spiritual significance, and the signing parties spoke of themselves as reciprocating partners. Although the treaties at this time were negotiated by the Canadian state, at every council it was

emphasized that Aboriginal peoples were allying with the Great Mother, Queen Victoria, the embodiment of the British Crown, who offered protection and assistance in return for land for settlement. As in the case of traditional Aboriginal alliances, the new treaties were to be re-confirmed annually through gifts. Alliances thus maintained would not be abandoned lightly.

Thus, in much of Canada, Aboriginal people retained a sense of loyalty to something high and important, a sense of worth as honourable partners and a sense of responsibility to uphold the alliance – as well as an expectation that the other partner felt bound in similar ways. This belief was to be sorely tested during and after the two world wars. Wartime service for Aboriginal people was a continuation of the alliance, a gift of oneself, one's energies and one's goods. But the relationship had changed, and these gifts were not perceived as they were intended – as confirmation of the old alliances and treaties, a reminder that Aboriginal people were still honouring their obligations and expecting the Crown to do likewise.

Many Aboriginal people also enlisted in the world wars for private reasons, just as many non-Aboriginal Canadians, however patriotic, enlisted for their own reasons. Enlistment exposed Aboriginal volunteers to the risks of combat, which they expected, and to new situations, places, regulations and training. However, for registered or status Indians, enlistment could ironically jeopardize the very relationship with the Crown that made enlistment right and proper. The threat was that enlistment could result in enfranchisement, which would completely terminate their membership in the Aboriginal community. This, in turn, would automatically eliminate their special relationship with the Crown.

Aboriginal communities approached military service with an eye to their history of relations with the Crown – very much as they had preserved the memory of their treaties and alliances among themselves. They wanted the government to understand that, as allies, they were free to offer their services to the Crown, each individual according to his own decision. Particularly during the Second World War, many Aboriginal nations initiated research into treaties and historical relationships so as to confirm their right to reject all forms of conscription in favour of voluntary enlistment.

Voluntary enlistment was high. Each war saw more than 3,000 registered Indians and numerous Métis and non-status people serve in the forces; many more tried to enlist and were rejected because of poor health or limited education. In Aboriginal communities where health and education levels were advanced, virtually every eligible man joined the armed forces. The overwhelming support for Canada's war effort – shown through enlistment, contributions to war charities and labour in wartime industries – was a measure of Aboriginal people's willingness to assume their responsibility in the crisis facing Canada. Their contribution was well received, and most Aboriginal people found acceptance as partners in the country's war effort.

Only after the wars, when registered Indians returned to their reserves and Métis and non-status people to their own communities, did it become clear that the semblance of full citizenship had been only temporary. As a result, after the wars, veterans would become leaders in their communities, challenging the government where its policies were at odds with its earlier undertakings to Aboriginal peoples. The beginnings of change occurred when Indians testified at the hearings of a joint parliamentary committee on the *Indian Act* in 1946-47.

The Aboriginal veterans' struggle for recognition and benefits achieved only moderate success, but the process stimulated the politicization of Aboriginal people. Even today, however, when strong provincial and national Aboriginal organizations exist, the veterans who remain feel that their sacrifice has not been honoured. The benefits they were denied are only part of the problem. What the veterans want is not a matter of financial recompense alone: they want recognition, confirmation from the government that they have fulfilled their side of the alliance by serving the nation to their utmost. They want non-Aboriginal Canadians to know this, and they want their own Aboriginal people to be proud of them and their fallen comrades.

Aboriginal veterans were well represented at our hearings. The strength of their testimony encouraged the Senate's Standing Committee on Aboriginal Peoples to authorize its own inquiry into veterans' grievances in January 1994. Its March 1995 report, entitled *The Aboriginal Soldier After the Wars*, confirmed widespread discontent about the nature of the benefits these veterans received and makes several recommendations to rectify the errors and omissions of past policy and practices.[2]

1. Early Military Service

The alliances Aboriginal people made with Canada from the time of the American Revolution until the First World War demonstrated their reliability and hardiness in battle and the vital part they often played in promoting the Crown's North American interests. Their loyalty to the British Empire, proven on and off the battlefield right up to the Boer War, did not, however, lead to the expected restoration of Indian territory, or to any better treatment by their allies.

By 1775, the colonial unrest that would lead to the American Revolution was bringing American agents to Canada to encourage other settlements to join in the revolt. The subsequent invasion of Canada was repelled, marked by a decisive victory over American forces 30 miles west of Montreal by some 100 Canadians and several hundred Mohawks led by Joseph Brant. Iroquoian forces were heavily involved throughout the war – although the league was now divided, with the Oneida and Tuscarora nations remaining either neutral or loyal to the Americans. When a peace was reached in 1783, Britain lost her claim to the western regions, including the Ohio and Mississippi Valley homes of many of her Indian allies.

Britain argued to keep her western forts for several years, but then depended on her Indian allies to hold them. Until the outbreak of war again in 1812, the western tribes were in constant turmoil as a result of conflicts with settlers, land speculators and American militia. This period marked the emergence of the Shawnee leader Tecumseh and, with him, a renewed call for unity among the tribes.[3]

Britain's Indian allies played important, often decisive, roles in many battles of the War of 1812. In fact, General Brock regarded them as essential to the defence of Canada, and he did what he could to encourage their support and make good use of their warriors. In July 1812, along with a handful of regulars and fur traders, a force of nearly 500 Indians took the American fort of Michilimackinac. American General Hull, who had managed to cross the Detroit River into Canada, had to retreat to Detroit, where General Brock, Tecumseh and their combined forces accepted his surrender.[4]

The later loss of Brock and his replacement by the British General Proctor resulted in less amiable co-operation with the Indian allies. They remained very effective as mobile troops, however, excelling as raiders and in ambush. In fact, Montreal fur trader James McGill declared that "The Indians are the only Allies who can aught avail in the defence of the Canadas."[5]

After a naval defeat, Proctor abandoned Detroit and retreated up the Thames River, despite Tecumseh's protests. While he fled upstream, the Indian allies were left to fight the battle of Moraviantown alone. Tecumseh, a great tactician much admired by Brock, likened Proctor to a "whipped dog crawling away with its tail between its legs."[6] Tecumseh died by the Thames, robbing the defenders of a great leader whom Brock had considered his equal.

In the Niagara region, American attempts to enlist the support or even the neutrality of the Grand River Six Nations and other tribes had very limited success. The loyalty of Aboriginal forces to the British Crown was proven beyond doubt by the decisive role they played in several important military conflicts – sometimes on their own and sometimes with regular troops and militia. These conflicts included battles involving the Six Nations, led by John Brant and Captain Norton at Queenston Heights and Fort George; warriors from the Six Nations, Caughnawaga (Kahnawake), Lake of Two Mountains (Oka) and St. Regis (Akwesasne), who fought at Beaver Dam; and the Ottawa, who were led into battle by Chief Blackbird and Captain Elliott at Balls Farm. Clearly frustrated, American General Porter attested to the effectiveness of Canada's Indian forces when he wrote, "this army lies panic-struck, shut up and whipped in by a few hundred miserable savages".[7] The Americans continued to send agents into Aboriginal communities, but only a few individuals could be pressured into joining them.

As late as 1814, repeated American attacks were repelled by loyal allies of the Crown, including the Winnebago, Sioux and Sauk nations in the upper Mississippi Valley. Britain was even considering a concerted campaign for the spring of 1815, in which its western Indian allies would play a key role.

Despite their loyalty to their British allies and their role in many victories, Aboriginal peoples received no major benefit from the war beyond the right to remain in British territory. Many did stay, even some from the western peoples that Tecumseh had persuaded to join the fray, and they settled with established Aboriginal communities here. Others drifted back to homelands in the United States.

At the peace conference of 1814, Britain could not persuade the Americans to support a buffer state consisting of Indian territory. The Americans did agree "to restore to the Indian nations who had been at war 'all the Possessions, Rights, and Privileges'" that had been theirs before the war.[8] There would, therefore, be no restoration of Indian territory.

Much later, the Boer War saw many individual Indian and Métis people volunteer, even though the conflict was offshore and far away. John Brant Sero, a Mohawk who went overseas despite being rejected by the military, was among them. He hired on as a civilian in the mule transport auxiliary and remained convinced that his rejection from the military had to do with his race. On behalf of all Aboriginal people, he indignantly wrote, "We believe we have an interest in the empire, bought by the blood of our ancestors."[9] Okanagan rancher George McLean, of the Head of the Lake Band, also served in the Boer War with the 2nd Canadian Mounted Rifles, and he volunteered again when the first of the two world wars broke out.[10]

2. The First World War

The Aboriginal people of Canada responded whole-heartedly to the wartime emergency of 1914-1918. Status and non-status Indians, Métis and Inuit all served overseas, frequently in the front lines.

During the war, many Aboriginal servicemen earned medals for bravery in battle, and most expected that their wartime contributions would result in a new atmosphere when they returned to Canada. On 20 June 1920 Saskatchewan Cree clergyman Edward Ahenakew voiced this hope:

> Now that peace has been declared, the Indians of Canada may look with just pride upon the part played by them in the Great War, both at home and on the field of battle. They have well and nobly upheld the loyal tradition of their gallant ancestors who rendered invaluable service to the British cause in 1775 and 1812 and have added thereto a heritage of deathless honour which is an example and an inspiration for their descendants. ...
>
> Not in vain did our young men die in a strange land; not in vain are our Indian bones mingled with the soil of a foreign land for the first time since the world began; not in vain did the Indian fathers and mothers see their son march away to face what to them were

> ununderstandable dangers; the unseen tears of Indian mothers in many isolated Indian reserves have watered the seeds from which may spring those desires and efforts and aspirations which will enable us to reach sooner the stage when we will take our place side by side with the white people, doing our share of productive work and gladly shouldering the responsibilities of citizens in this our country.[11]

There was an early burst of spontaneous enlistment by Aboriginal people that reflected the patriotic enthusiasm of Canada's general population. Agency lists of those who volunteered are remarkable. For instance, the record from Golden Lake listed 18 men, most of whom served in France; seven were wounded, and five were killed in action.[12] At war's end, only three able-bodied men of service age remained at Golden Lake.[13] The listing from Chapleau agency includes a note from the agent: "The above are all Indians of this Agency every one of whom Enlisted Voluntarily previous to the time the military Service Act was passed and all have seen service in France... several have paid the supreme sacrifice."[14]

The response of many Aboriginal communities to the outbreak of war was so rapid that men were in uniform before policy was established. Aboriginal soldiers were dying overseas even before December 1915, when permission for Indians to enlist was given officially. Before that, concerns had been expressed that German forces might discriminate against them if they were captured, so policy makers hesitated to recommend acceptance of Indian enlistees.[15]

Early volunteers were soon being joined by those who enlisted once formal recruiting campaigns got under way. Lieutenant Colonel Glen Campbell, who had been chief inspector of Indian agencies for Indian affairs at Winnipeg, promoted the establishment and manning of the 107th Battalion at Winnipeg from December 1915, intending it to be all or mostly Indian.[16] Recruiting for Aboriginal volunteers for this unit included visits to the Elkhorn residential school.[17] Active recruiting at the residential schools led to considerable suspicion on reserves and to cautions from elders, who believed their men should not be liable for any military service outside Canada.

After the first three years of war, as general enlistment slowed and manpower needs increased, the government had to consider stronger measures to encourage enlistment. The *Military Service Act* provoked considerable public reaction, not least from status and, particularly, treaty Indians. The act provided for conscription based on registration of all British subjects. No notice was taken of status Indians' lack of citizenship or of treaty membership. Indian affairs deputy superintendent Duncan Campbell Scott insisted that the *Military Service Act* did apply to all Indians and denied the argument that treaty Indians were exempt.[18]

The possibility of conscription gave rise to anger and resistance in many reserve communities. Scott ignored the existence of historical treaties and

alliances but later recommended that Indians be exempted from service, after registration, on the basis that they were not qualified to vote. This was confirmed by an order in council very late in the war.[19] While some status Indians already serving were given discharges, Scott manipulated the new regulation: he did not publicize the exemption, so serving soldiers would not find out that they could return. In some of his correspondence, he went so far as to deny that the exemption existed at all. Even so, by mid-1918 he was arguing that Indians should not even be allowed to volunteer, let alone be called up.[20]

Despite Indian affairs' policy shifts, well over 3,500 status Indians did serve in the First World War.[21] Non-status Indians and Métis who enlisted were not counted, but many served, often with distinction. Numerous awards for bravery went to Aboriginal soldiers: Okanagan Private George McLean was awarded the Distinguished Conduct Medal for "conspicuous gallantry and devotion"; Ojibwa of Hiawatha Lance Corporal Johnson Paudash received the Military Medal; Oka Private Joseph Roussin was awarded the Military Medal and nine wound stripes. Ojibwa Corporal Francis Pegahmagabow, who enlisted in 1914, earned more medals than any other Aboriginal soldier of the First World War. He excelled as both scout and sniper, and returned to Canada only in 1919. Henry Norwest, Military Medal and Bar, was killed.[22] Olympic runner Corporal Joe Keeper of Norway House, Manitoba, who excelled as a middle distance runner in Canadian Corps sports activities, also went on to win a Military Medal.

Early in the war there were plans to have several all-Indian battalions. The 114th Battalion in eastern Canada originally enlisted many Six Nations, Kahnawake and Akwesasne soldiers. The 107th Battalion out of Winnipeg began with a high proportion of western Aboriginal recruits. However, both units were dispersed overseas, as replacements. Wherever they ended up, Aboriginal servicemen were particularly prized as snipers or sharpshooters, a dangerous but essential function, and as scouts. Many also served in Pioneer and Forestry battalions, often performing heavy labour in construction while under fire. By war's end, Aboriginal soldiers were scattered widely in many infantry battalions, Pioneer, Labour and Forestry battalions, Railway Troops, the Veterinary Corps, the Service Corps, and Canadian Engineers, with only a handful serving in the Air Force. For most Aboriginal recruits, the lack of formal education meant the Army was their only option upon enlistment.

Lack of education also restricted promotions within the Army. Many Aboriginal soldiers became non-commissioned officers, corporals, lance corporals and sergeants, but a commission to the rank of lieutenant or above was virtually impossible without education. The fact that a considerable number were commissioned indicates that race was not a limiting factor: Lieutenant James David Moses of Oshweken and Lieutenant John Randolph Stacey of Kahnawake were Air Force officers; Lieutenant Cameron Brant, Lieutenant (later Brigadier) Oliver Milton Martin, and Captain Alexander Smith and Captain Charles D.

Smith of Six Nations earned their rank in the Army.[23] Hugh John McDonald, a non-status Indian from the Mackenzie Valley, is reported to have earned his commission "by virtue of outstanding service in the field".[24]

The casualties of war included many of the officers and decorated soldiers. In all, more than 300 status Indians died – of the more than 3,500 that enlisted. Hundreds of others were wounded, many of whom died soon after the war. In addition, disease took a heavy toll; the isolation of many reserves and Aboriginal communities meant that immunity to some diseases was low.

Inuit recruits came mostly from Labrador. Among them was Lance Corporal John Shiwak of Rigolet who served as scout, observer and sniper with the Royal Newfoundland Regiment before being killed in France. Frederick Frieda of Hopedale served in the same regiment overseas, as well as in the Canadian Rangers, a domestic defence force, after the war.[25]

Returning veterans found themselves in the care of the new Department of Soldiers' Civil Re-establishment – provided they were not status Indians. Status Indians who returned to reserves found themselves under the control of Indian affairs for matters pertaining to their war service.

Administration of the new *Soldier Settlement Act* for status Indian veterans returning to the prairies was placed in the hands of Indian commissioner William Graham.[26] During the war, Graham had been appointed "to make proper arrangements with the Indians for the leasing of reserve lands" for purposes of "greater production". As early as 1917 various schemes had been considered to alienate Indian reserve lands in order to re-settle returning veterans. The Army and Navy Veterans Association asked specifically that the government purchase reserve lands, among others, for the use of veterans.[27] Thus, the wartime plan to lease Indian reserve lands to boost agricultural production merged into the post-war plan to obtain outright surrenders of Indian reserve lands for veterans.

Pressure first to lease and then to sell reserve land angered many bands. Often they refused. Their resistance was countered by the so-called Oliver Act of 1911, a series of amendments to the *Indian Act* that facilitated the sale and expropriation of reserve lands.[28] In addition, a 1919 order in council gave the superintendent of Indian affairs authority "to appropriate and to cause to be utilized any portion of any Indian reserve which is not under cultivation or otherwise properly used."[29] In concurrence with Indian affairs policy, Commissioner Graham went after Indian land vigorously until 1922. The department justified its actions as follows: "...the areas of the reserves set apart under treaty were generous, but were given as part compensation for the cession of title, and with the intention that, in the future, the proceeds from the sale of the lands might form funds from which the Indians could be maintained."[30]

This rationalization violated the spirit of treaty agreements. As one historian put it, "The soldier settlement emergency was an excuse to alienate some

valuable lands from Indian use. ...[These lands were] part of the birthright of those people the Crown had sworn to protect at the time of the treaty."[31]

Indian affairs succeeded in obtaining surrenders of 85,000 acres of Indian reserve land, mostly in Alberta and Saskatchewan.[32] Although prices were often close to real value, coercive methods were used in the face of understandable reluctance on most reserves. Surrenders appeared to have two goals: making Indian land available to satisfy veterans and neighbouring farmers and ranchers, and raising funds for the support of Indian bands through the sale of their lands.[33]

While prairie Indian reserves were being subjected to leases and surrenders, returning status Indian veterans were waiting to see what the *Soldier Settlement Act* would offer them. Commissioner Graham would administer a revised act for status Indians. Indian affairs was given the right to obtain land for an Indian veteran either on- or off-reserve, and the department was also given the power to override any band council's opposition to granting reserve location tickets to veterans.

In practice, almost no free land off-reserve was ever granted to a prairie Indian veteran. Neither treaty nor non-treaty Indians were able to homestead in Manitoba, Saskatchewan, Alberta or the North (the Territories), since the *Indian Act* barred them specifically from "acquiring a homestead or pre-emption right...to a quarter-section...in any surveyed or unsurveyed lands in the said provinces."[34] The result was that most Aboriginal veterans were excluded from the standard benefits supposedly their right as veterans under the *Soldier Settlement Act.* To all other veterans the act offered a homestead; a purchase or lease from the Soldier Settlement Board of land, stock or equipment at reasonable rates; a loan advance or mortgage; and farming instruction.[35]

In eastern Canada, some status Indian veterans "did obtain loans and purchase some land outside of their reserves without losing their treaty status."[36] In the west, the status Indian veteran often lost his share in communal lands sold to the Soldier Settlement Board, while also remaining ineligible for the 160 acres available to other veterans.

Furthermore, western veterans often found it difficult to obtain location tickets on what was left of their bands' communal land: band councils feared further break-up of their land and, to protest Indian affairs' manipulations, refused to co-operate. This left many Indian veterans empty-handed, as well as alienated from other members of their bands. Even if a status Indian gained a location ticket, the right to occupy and use a piece of reserve land was not the equivalent of other veterans' outright ownership of a quarter-section of land as a free homestead. The status Indian veteran obtained nothing more than the right he already had as a band member.

Administration of the *Soldier Settlement Act* by Indian affairs also made it difficult for status Indian veterans to obtain other benefits to which they were entitled. On the prairies, only one Indian veteran in 10 that applied for financial

assistance was given a loan by the Soldier Settlement Board.[37] One inspector candidly reported refusing a Six Nations veteran a loan on the grounds that "The amount of the loan appeared to me to be too large for an Indian." In the west, Graham tried to have loans deducted from band trust funds, rather than from Soldier Settlement funds. Western loans, few as they were, were not granted until 1920, two years after the war's end. By 1921, about 150 loans had been approved for status Indian veterans – a small fraction of the total number of returning veterans. While the number of loans rose over time, most were confined to Ontario.[38]

Concerning other veterans benefits, the Royal Canadian Legion pointed out that Indian veterans were being shortchanged on several counts. In 1936, the Ontario convention passed the following resolution:

> That the Indian War Veteran be placed on the same footing and receive the same benefits as his other Canadian comrades, especially in regard to the Last Post Fund, Pensioners' Relief and Veterans Allowances, and that the Canadian Legion, British Empire Service League, do everything in their power to bring this about.[39]

The pensions board felt that the veterans had certain benefits by virtue of their status as Indians and so should not be given the larger veterans benefits. It had been decided in the spring of 1932 that "Indian veterans on reserves in need of help were to be treated like other Indians on reserves rather than as veterans. Only enfranchised Indian veterans not living on reserves were entitled to the same benefits as non-Indian veterans."[40] Finally, in 1936, some months after the Legion's protest, the Legion recommendations resulted in a revision of policy.

Indian veterans were clearly placed at a serious disadvantage by a combination of the soldier settlement land purchases, the restrictive clause of the *Indian Act* concerning prairie homesteads, the location ticket alternative to free land, and the very limited approval of loan applications. These inequalities were far more important than those listed by the Legion, since they were about matters regarding land title and loans; unlike those related to pensions and allowances, these inequalities were not rectified.

3. Between the Wars

Aboriginal veterans faced other challenges during the interwar years. All communities had to cope with the Great Depression. Métis people and non-status Indians with access to hunting and fishing lands generally fared better than status Indians trying to cope with inadequate and shrinking reserves. The few veterans who acquired location tickets and loans and tried to start up their own farms faced intense dust bowl conditions and depressed markets for their products.

Veterans with fresh ideas and a determination to create change, especially reducing the control of Indian affairs branch (IAB) over their lives, found that their biggest impediment was the IAB bureaucracy itself.

> ...Indian war veterans found that nothing had changed; they were still under the yoke of government bureaucrats and treated like irresponsible children. Some became angry but most became bitter or disillusioned by the fact that the better world they had fought for did not seem to exist within the boundaries of their own reserves.[41]

In the east, F.O. (Fred) Loft, a Mohawk who had been a lieutenant during the First World War, aroused IAB suspicions when he began organizing the League of Indians to work for change. Loft was one of "the great Indian activists of the first half of the twentieth century, whose struggles laid the groundwork from which recent activism emerged".[42] In 1918, a new Aboriginal political organization was envisioned. Although the League of Indians began in the east, with Loft as its first president, the intention to become national in scope was demonstrated at western conventions in Manitoba in 1920, Saskatchewan in 1921 and Alberta in 1922. Loft's initial plan had been to organize widely scattered bands for united collective action patterned after labour unions. He maintained that Indian peoples were facing the same problems and could only effect change by working together: "We must be heard as a nation".[43]

Among the grievances uniting Aboriginal communities were the amendments to the *Indian Act* facilitating the sale of Indian reserve lands, instituted by the minister of the interior, Frank Oliver. Two aspects of the amendments are of interest here. First, the superintendent general of Indian affairs was empowered to order an inquiry into the removal of an Indian band residing on a reserve adjacent to a town of 8,000 residents or more, as well as to initiate that removal, resettle the Indian population and sell the land. Second, expropriation of Indian land was to be allowed without surrender or consent if the land was needed for roads, railroads or other public projects. These amendments – in addition to the 1894 confirmation of the superintendent general's power to lease undeveloped reserve lands without a band's surrender or consent, and the 1898 amendment giving the superintendent overriding powers – led to the surrender and sale of hundreds of thousands of acres of some of the best Indian lands.

Duncan Campbell Scott, deputy superintendent general, reacted with increasing animosity to the growth of Aboriginal political organization. In 1920 he notified Loft that "the Department is considering the question of your enfranchisement." The IAB saw enfranchisement as a means to eliminate "troublemakers and educated Indians from the ranks of Indians as a whole."[44] The League of Indians and Loft personally lobbied against new legislation to enfranchise returned First World War veterans. It was Scott's view that the IAB should

be able "to enfranchise individual Indians or bands of Indians without the necessity of obtaining their consent thereto."[45] Loft was attempting to get answers from Commissioner Graham, who was surveying western reserves and pursuing a policy of obtaining land surrenders. Scott ordered Graham not to confer with Loft at all, sent extra RCMP to all meetings of the League, and kept Loft himself under surveillance. When Loft then attempted to deal directly with members of Parliament, Scott tried to discredit him.

For personal reasons Loft left the League for a few years. In this interval the IAB attempted to suppress further political activity. An amendment to the *Indian Act* made it illegal to raise funds "for the prosecution of any claim." The penalties for any organizer who persisted included fines and jail sentences.

On his return, Loft was unable to revive the eastern branch of the League because of persecution by Scott. Although Loft failed to make the League a national force, the western branches continued throughout the 1930s and often adopted Loft's example of circumventing the IAB and calling upon members of Parliament for help.

The level of activity in the western League illustrated that Indians "were not silent, passive observers of their destiny but rather actively struggling for a place as native people in Canada."[46] In the west, leadership in League activities continued in the hands of men like John Tootoosis and Edward Ahenakew, men conscious of the contributions Aboriginal people had made in the war and familiar with the controls exerted by the IAB and the poverty, limited education and discrimination that results.

When the Second World War broke out in 1939, Indians found themselves, as in 1914, less able than other Canadians to participate fully, since they lived in more remote locations or were separated from the rest of Canadian society by the reserve system. Inequalities with regard to health, education and employment experience placed them at a further disadvantage.

4. The Second World War

4.1 Enlistment

"Indians are very loyal."[47] With these words, IAB director Dr. H. McGill summed up the response of Aboriginal communities across Canada at the start of the Second World War. In British Columbia, Native Brotherhood of B.C. spokesman Ambrose Reid asserted: "It is our duty as patriotic citizens to put aside our personal claims or claims of our brotherhood and aid our country in this time of stress... our country is at war so we the Native Brotherhood are at War."[48]

In Alberta, Teddy Yellowfly of the Blackfoot Council declared, "Indian loyalty to Canada and to the Empire shows the outlook of the Indian is purely Canadian in its nature and character."[49] At Rocky Mountain House, Alberta,

Chief Walking Eagle vowed, "every Indian in Canada will fight for King George".[50] Chief Joe Dreaver of the Mistawasis reserve in Saskatchewan, a veteran of the First World War, led 50 volunteers into the nearest recruiting station. The response of Aboriginal communities matched the early rush of volunteers in the general population. By the end of 1940, many Aboriginal men and women were already overseas or working in essential wartime industries. But Chief Joe Delisle of Six Nations in southern Ontario urged that Aboriginal communities do even more "to help our King and Queen and to bring about the downfall of the tyrant."[51] Most declarations of loyalty included pointed references to the monarch as a descendant of the British royalty with whom alliances and treaties had first been made.

The reports of Indian agents across Canada confirm this loyalty. Indians were enlisting and serving in the forces at home and overseas; working in steel, munitions, agriculture and a host of other essential industries; and raising money and goods for the Red Cross, the Salvation Army, the Spitfire Fund, war bonds and other wartime agencies. Indians were opting in; they were behaving like other Canadians.

There was an irony in this, however, for legally, status Indians were not Canadian citizens at all, nor were they being treated as such by the Indian affairs branch. Status Indians, unique among Canada's Aboriginal people, were non-citizens and wards of the government until 1960.

Standards of health and education had been so low that at least half the men who volunteered for the armed forces had to be rejected.[52] In addition, the IAB often blocked the contributions Indians tried to make to wartime charities.[53] Status Indian men who served in the forces were regarded as prime candidates for enfranchisement. The IAB collaborated with the Department of National Defence (DND) in the alienation of Indian lands over Indian protests, then persuaded DND to allow the IAB to administer soldiers' benefits for all Indian servicemen. Although Indians responded to the challenges of the war years, and their lives expanded and changed, the IAB did not change its approaches and methods.

Although IAB interference did not affect non-status Indians and Métis people, many among their number had to struggle with isolation in widely scattered communities in the north. The lack of services, in both education and health, came to light only during the Second World War. Despite the absence of treaties connecting them to the Crown, Métis and non-status communities saw a large proportion of their men volunteer.

Estimates of how many Aboriginal people served during the Second World War vary widely. Government statistics, based on IAB records, indicate that by 1945 3,090 status Indians had served. Charles Roasting, president of the Indian Veterans Association of Alberta, provides an estimate that takes in a longer timeframe and includes other Aboriginal people in addition to status Indians.

He reports that 12,000 Aboriginal people served in the two world wars and Korea, an estimate that certainly appears reasonable.[54]

Testimony at our public hearings and those of the Senate committee showed that some status Indians were reluctant to enlist for fear of enfranchisement, and indeed some veterans reported having been told that they had to enfranchise in order to enlist. Others reported that they returned home to find they had been enfranchised in their absence. Still others were subject to persuasion or pressure on their return and encouraged to sign enfranchisement documents in order to receive all veterans benefits.[55]

Veterans reported motives for enlistment quite comparable to the Canadian population as a whole, including their need for work to support themselves and their families, their enthusiasm for adventure, and their love and sense of duty for their country.

Rejection of early volunteers, in 1939 and 1940, was common. The nation had not been prepared for the outbreak of war, and the long depression had created a large pool of men eager to don a uniform if it meant food, shelter and wages. But there were not enough uniforms, barracks or guns for so many volunteers.[56] Unable to accommodate the first rush of volunteers, the armed forces had to reject them.

Many Aboriginal enlisted men, like those in the general population, were discharged as a result of further medical testing during training camp. Owing to rigorous training and frequent retesting, it was common for men to be discharged within weeks or months of enlisting. Discharge of a recruit before he had served one full year in Canada or any period overseas would bar him from receiving veterans benefits. Many health problems, in particular the debilitating ones experienced by the Indian population, were aggravated by arduous training, and they resulted in numerous cases of newly active tuberculosis and pneumonia.

In his annual report for 1939-1940, IAB director McGill commented that Indian communities were experiencing "the usual amount of infectious disease", including influenza, diphtheria, scarlet fever, measles, chicken pox, whooping cough and pneumonia. While acknowledging that there had been many deaths from influenza and pneumonia and a serious outbreak of typhoid at the Norway House residential school, McGill asserted that there were "no epidemics of serious proportion". The director pointed out that there were programs to alleviate the high incidence of tuberculosis among Indians, which was "more than ten times as high as among the white population."[57] Indian agents reported high military rejection rates for status Indians on medical grounds: for example, Birtle agency reported 100 per cent, and Battleford agency 25 per cent on enlistment and an additional 40 per cent during training.[58] Agent Ostrander of Battleford wrote in September 1941, "Physical fitness is a stumbling block to most of them. The number of those rejected for impaired vision and lung scars is surprising."[59]

Sometimes tuberculosis became evident only after recruits underwent rigorous training or actual combat conditions, and then pneumonia or fully developed tuberculosis could claim a life. For example, Joe Snake Person, a Blackfoot from Alberta, died of pneumonia after only a few weeks in training camp. Mike John Paul of Stuart Lake, British Columbia was discharged when he became ill. He subsequently died in an Indian hospital. Teddy Many Wounds, a Sarcee from Alberta, died of pulmonary pneumonia after serving overseas.[60]

Since hundreds and perhaps thousands of Indians were unable to pass medical examinations, no figures cited to gauge their participation in the war are ever likely to reflect with any accuracy their widespread willingness to serve. Too many were fighting private wars with disease.

While so many Aboriginal volunteers were failing medical examinations, many others were being excluded from the forces because of lack of education. Both the Air Force and the Navy required a grade 8 education, and although the Army could accept a lower level, it was difficult for recruits with little or no English to adapt quickly enough.

Status Indians could understand and accept discharge based on health problems. Early in the war, however, some were told they were not needed even before medical examinations. The previous war had left a good deal of confusion about enlistment of Indians in the forces. Enough doubt about policy remained in 1939 to make some recruiting officers hesitate when Indian volunteers appeared. Indian agents also kept writing to the IAB in Ottawa asking whether the First World War policy exempting status Indians was still in force.[61]

Many Indians who volunteered early in the war were distressed at being rejected. One of the best qualified among them, Tom Prince of the St. Peter's Reserve (later the Brokenhead Reserve), was turned down many times. In every respect he was well qualified: he had graduated from grade school, he had been a cadet, and he was an excellent marksman.[62] Prince was finally accepted in 1940, and then began a remarkable career in the forces.

Agent N.S. Todd of Kwakewlth described the experience of many west coast Indians:

> Indians are very loyal. At the outbreak of war many Indians tried to enlist in the naval Service, as they felt that as their whole life had been spent on the waters of the Pacific, they were best fitted to serve in this branch of the Service. A great many of them volunteered their services, spent considerable sums of money going to recruiting offices, only to be turned down. The reason given was that they could not accept an Indian in the Navy...[63]

The Navy's reply to an enquiry on this issue from the mines and resources department, which had responsibility for Indian affairs, stated: "Although it is considered that there is much excellent material among the Indians on the B.C. coast,

it is strongly recommended that all Royal Navies should still maintain the strict rule that personnel must be of 'Pure European Descent and of the White Race'."[64]

Canadian naval policy was based on British regulations. Clearly, the Navy's policy was not to be changed easily. The Navy designated one of its destroyer classes 'Tribal' and named each ship in that class after an Indian nation – the *Athabasca*, the *Huron*, the *Nootka* – but status Indian sailors were not welcome to sail them. This ban was not removed until February 1943.[65]

Where health and education permitted, enlistment was high; Ontario Aboriginal communities generally fared better than average in health. As W.L. Falconer, MD, assistant superintendent of medical services, noted at Cape Croker (home of the Chippewa of Nawash), "a good index of the health of the band is that out of a total population of 471, there are about fifty of the men in the Army."[66] By the end of the war, 78 Cape Croker men were in uniform. Other Aboriginal communities in southern Ontario sent similarly large contingents to the forces.

Not all Aboriginal men rushed to join up in the first year of the war. Some were too young, and those who waited often found that jobs were becoming more abundant and better paid than before the war. Across the country, they were finding nearly full employment under wartime conditions, often in essential industries. Some jobs paid well enough that military pay was no longer a great incentive to join up.

Like the general population, however, Aboriginal men and women continued to volunteer. Few enlisted alone; going in with one or several friends or relatives was much more common. While young men sometimes joined on impulse, others joined only after long deliberation. One veteran of the Second World War reported that he was influenced by discussions among the elders of his band:

> Some of the elders at the reserve spoke a lot about the wars. One time, they were sitting in a circle telling stories about Adolph Hitler running over countries. The elders said he was ready to take England and that is where our King was. Hitler was so powerful and he'd been building arms for years. If he did take England, he'd be able to take Canada. If that did happen, I wondered what would happen to our treaty with the Queen. About 16 of us from the reserve decided to go and stop Hitler. We wanted to have a part in winning the freedom of the world.[67]

Indian enlistees were often following a tradition of military service begun by fathers or uncles in the First World War. "I had three uncles in the First World War and they felt the best thing for me to do was to join the Army. Prior to that, I had never been off the reserve," reported Ernie Crowe, of the Piapot Reserve in Saskatchewan.[68] The military tradition was so strong in some families that all sons and even daughters joined the services.

Just as some men enlisted only after long deliberation, others, after considering the pros and cons, chose not to enlist. Western status Indians particularly had many reasons to remember the experiences of the First World War. Foremost among these was the widespread sale of Indian reserve lands, which should have been protected by the IAB, to supply the soldier settlement scheme with land for veterans. In addition, there was the rankling *Indian Act* prohibition on homesteading in the prairies and the north; both treaty and non-treaty Indian veterans were subject to this bar. Besides, many people in these communities could recall their limited access to veterans benefits through the IAB and veterans' difficulties obtaining location tickets on reserve land.

Many western bands were also reluctant to see their members enlist because of the enfranchisements that took place during the First World War. Also, pressure had been brought to bear on Aboriginal veterans to enfranchise themselves and their families through the compulsory enfranchisement legislation of the 1920s. Suspicion among these Aboriginal people only increased when compulsory training was begun in 1940. Members of the Red Pheasant Band of Saskatchewan were sufficiently concerned to mount a protest to the National Selective Service Registrar, the agency that administered the regulations of the *National Resource Mobilization Act* (NRMA). Their protest had been preceded by others across the country,[69] to the point that the IAB suspected that agitators were at work. The IAB had clearly missed the point: it was the experience of western bands following the First World War that gave rise to this response.

Indian loyalty was sorely tried when the government implemented the NRMA. In 1939, Canada had entered the war with a minimal permanent military force. After Dunkirk, in May 1940, the only allied forces in Britain that were reasonably well equipped and intact were units of the Canadian First Division. It was now obvious that Canada could no longer participate on the basis of limited liability. The Canadian Second Division was sent to Britain earlier than planned, Parliament voted more money to sustain the war effort, and the cry went up for "complete mobilization of the manpower, financial, and industrial resources of the country".[70]

The NRMA of 21 June 1940 provided for the call-up of all eligible men, following national registration, for a medical examination and a military training period. Service was to be in Canada only, whereas active duty overseas would continue to be strictly voluntary. This was Prime Minister Mackenzie King's "not necessarily conscription but conscription if necessary."

Perhaps Indian leaders had anticipated the true potential of NRMA to force unwilling conscripts into longer service and overseas duty. As the war went on, the initial training period of 30 days was lengthened to four months. This compulsory service was very disruptive to men who worked in seasonal occupations like farming, fishing and lumbering – as many Indians did. Further, some of the newly trained men could be called upon to serve in Canada, in home defence

or reserve units. Training and service in Canada were reasonable duties, at least for citizens; but all young men in uniform, including status Indians, were coming under greater pressure to sign on for active duty overseas.

By 1944, this had become "intense pressure", according to Major-General E.L.M. Burns.[71] Thus, the NRMA was exposing recruits, including Indians, to the risk of being pressed into full combat duty. This risk was made a near certainty in November 1944, when the government of Canada, despite earlier assurances to the contrary, made the decision to send conscripts overseas. Conscripts who had refused to opt for active duty voluntarily, including men of all ethnic and racial origins, had been labelled 'zombies' by combat soldiers. Some of these 'zombies' were ordered overseas after the 1944 order in council, and 2,400 were posted to combat units.[72]

Band councils and leaders had begun preparing their defence against the NRMA in 1940. They investigated historical precedents and the legal implications of their treaties with the Crown, while the defence department and the IAB tried to decide the applicability of the NRMA regulations to Indians. In the end, IAB director McGill was informed that all status Indians would have to register and would be subject to the call-up.

Indian ingenuity and initiative in opposing the NRMA call-up and training took many forms. The simplest form of resistance to this new challenge was to avoid registering. Isolation aided this strategy, especially in the north and west. However, any man who wanted to take advantage of the availability of hundreds of new jobs had to be registered to qualify for work.

Hunters, trappers, fishermen and migratory farm workers were often away for months at a time and received their notices to report for medical examinations long after the response dates. Some notices never reached individuals, while others were disregarded because of language or literacy problems. Other notices may have been ignored because, although deferrals were quite likely available, the process of obtaining them was too slow and cumbersome. The case of Stikine illustrates the situation facing many isolated sites: Agent R.H.S. Sampson informed IAB in 1944 that 30 men had received notices to report for medicals and many were quite willing, but "they cannot obtain a medical examination here."[73] Doctors had never been readily accessible in isolated Indian communities, and with the war they were scarcer than ever. The Inuit population was not subject to the NRMA regulations at all.[74] Isolation and the language barrier served effectively to exempt most Inuit from the armed forces – although many would become involved as civilians and would serve in the Rangers, a domestic defence force.

As the war progressed, reserves and other communities were visited by recruiting officers. Some agents called meetings to guarantee the officers an audience; others trekked around the reserve with the officers, encouraging Indians to speak with them. Some agents pointed out the advantages of joining up, portraying military service as a well-paid job and a means of supporting a family.

On more than one reserve, the combined effect of the appearance of an agent with armed recruiting officers conveyed the impression that men could be taken by force for military service. Not only individuals, but some entire communities resisted the compulsory call-up under the NRMA. Six Nations had a long history of claiming status as an allied nation rather than as a subject community – and an ally could not be conscripted but could join only by volunteering. Six Nations men and women were in fact actively volunteering for military service in both Canada and the United States while the dispute went on.

The Six Nations council directed the Indian superintendent, Major E.P. Randle, to convey their concerns to the IAB. It was pointed out that Six Nations people had served in the armed forces during the First World War

> ...willingly enlisting of their own accord in numbers considering their population which will bear favourable comparison with the British Canadians... it is frequently impressed upon the Indian that he is considered a minor and a ward of the government and not given a vote, but now as compulsory military service is brought they have to accept full responsibility of citizenship.[75]

Randle pursued his argument that the Six Nations council was not at all disloyal and that they had a just grievance against the NRMA call-up. Further, the council members were well aware of the 1918 order in council which, although a little late for the First World War, had exempted Indians from overseas service, and they felt it should still be in effect. They were anxious to proceed to Ottawa to lobby the government directly, as they had during the previous war. The superintendent general, McGill, stated bluntly, in January 1941, that the order in council of 1918 was no longer in force. Following an inquiry from a member of Parliament, M.J. Coldwell, McGill explained that no treaty made any reference to military service and that, while it was true that Indians were not citizens, they did have certain privileges that other Canadians did not enjoy.[76]

Many western bands felt that the treaties were not only significant but definitive, and that they included assurances that had never been written into the official texts. In the formal treaty-making context, marked by gift exchanges and the pipe ceremony, Indian signatories considered that the verbal promises were at least as binding as the written ones. In the process of completing Treaty 3 in October 1873, Commissioner Alexander Morris had stated: "The English never call the Indians out of their country to fight their battles." Nearly three years later, in August 1876, while attending treaty negotiations for Treaty 6, chiefs and councillors of the Cree asked Morris specifically about the question of military service. He replied: "In case of war you ask not to be compelled to fight. I trust there will be no war, but if it should occur I think the Queen would leave you to yourselves. I am sure she would not ask her Indian children to fight for

her unless they wished...". At the September 7 meeting with the Cree, Morris again said, "...you will never be asked to fight against your will."[77]

Just as the plains Indians of the 1870s wanted clarification of their liability for military service, so the Indian communities of the 1940s sought a firm statement on their own position. They believed that the treaties exempted them at the very least from overseas service, and since the government would not honour the 1918 order in council, they turned to lawyers, members of Parliament and cabinet ministers to appeal for a reversal of the 1940 decision. It was only in December 1944 that the cabinet relented, conceding that the treaty promises did have validity. Although all Indians were still liable for military training and for service within Canada, members of Treaties 3, 6, 8 and 11 would be exempt from overseas service.[78]

Impressions created by the attempts of status Indians to avoid compulsory military service should not be misconstrued. The IAB should have sought legal advice and did not, leaving the onus on Indian bands and individuals to obtain legal clarity about their rights. The lack of Canadian citizenship had been the basis of the 1918 order in council exemption and was a valid precedent. In many Aboriginal communities, virtually all eligible men enlisted, and indeed so many Indians tried so hard to get into the armed forces that their opposition was clearly to the principle of conscription, not to serving their country. The records of many men attest to this, and they were accompanied by a remarkable number of Aboriginal women who enlisted voluntarily, even though as women they could not have been called up.

4.2 Community Support

Once the war began, more status Indians were fully employed off-reserve than ever before. The growing freedom of movement under wartime conditions, as well as the many jobs now available in Canada and the United States, contributed to a new sense of independence and self-reliance. Just before the war, Indian agents had still been granting or denying permission for band members to leave their reserves; now, not only servicemen, but many other adults were coming and going freely, leaving agents uninformed and frustrated. Even during the war, political organizing continued. For example, John Tootoosis "maintained his duties as an organizer and a recruiter for the [Saskatchewan] League", while at the same time bombarding the IAB with questions about Indian military service and deferral.[79]

In cases where Indians asserted their right to deferral it was usually approved. Nearly all applications for deferral among Indians along the B.C. coast were granted routinely. Almost overnight, Indians had become the majority of workers in the west coast fishing industry: after Pearl Harbour, Canadians of Japanese origin had been interned inland, their boats confiscated by the government.

Fishing companies began actively wooing Indian fishermen. Additional employment in logging camps and in the construction of roads and airports meant that most coastal Indians were involved in strategic industries, and many were serving their country best where they were. Deferrals were also granted routinely on the prairies, as Aboriginal people were needed in grain growing and cattle ranching to help maintain vital production.

By mid-war, Aboriginal communities were almost all short of manpower: men who were not in the armed forces were working in construction, fishing, logging, agriculture and war industries, and they were hard-pressed to continue the more traditional pursuits of farming, fishing, hunting and trapping to support their families. Even under such conditions, these communities found the will, time and energy to contribute to wartime charities. Some communities were quite poor, their physically fit, able-bodied members having just been taken off relief during the war.[80] Others who were still on relief now refused to accept it, regarding that as their way of helping. Even some communities forced to lease land for the war effort continued to be generous. For instance, in 1940, the Enoch Band of the Stony Plain Reserve, Alberta, and the Winterburn Band, also in Alberta, having received $400 from the government in rent for their lands, donated it to the country's war effort.[81]

However, the IAB director ruled against any band donating money from its trust fund account, even if it was intended for war bonds or the Red Cross. One of the few exceptions was Six Nations, which was permitted to donate $1,000 annually to the Red Cross from its more substantial account. IAB secretary MacInnes defended the branch's position: "[It is] customary to charge relief supplies, road expenditures and certain salaries and pensions to this account... [it] might be overdrawn in the future."[82] In addition, the government already had access to all trust fund accounts, and most of the money was already invested in the war effort.[83]

Indian bands were not daunted by controls on their accounts, and most set out to raise money or goods to donate. Indian communities held dances, sales, exhibitions and rodeos; they collected scrap tires and iron. They made front-page news with pictures of colourful costumes and stories of their gift giving. At Sioux Lookout, the Caribou Lake Band volunteered a portion of its spring furs and offered to care for refugee children.[84] Mi'kmaq at Whycocomagh voted to send $2,000 for the relief of the "suffering children of Scotland."[85] One of the most outstanding examples of Indian generosity came from Old Crow, Yukon. Old Crow Chief Moses walked from his home into Alaska, carrying the community's winter furs. After selling them, he walked back to the nearest RCMP post and handed over some $400 to be donated to the orphan children of London, England. The BBC and the government of Canada made much of this incident, sponsoring a broadcast by Indian soldiers in Britain. Before long, Old Crow had raised more money, this time for the Russian Relief Fund.[86] Not content to rest

on their laurels, the same band next contributed $330 the relief of Chinese victims of war.[87]

Indian generosity benefited Wartime Savings Stamps, Victory Loan Bonds, Wings for Britain, the Spitfire Fund and a host of other charities. In a letter to J. Ralston, the minister of national defence, a number of Indian agents stated: "These contributions are unsolicited and are an indicator of the inherent loyalty of the Indian population and their desire to assist in the war effort, at what must be to them considerable personal sacrifice."[88]

Indian women on reserves were contributing to the charitable donations of their communities – in addition to struggling to survive in the absence of so many men. Furthermore, many young women, especially those with education, were volunteering to serve in the armed forces. By war's end, many Métis women and at least 72 status Indian women had been in uniform. Among them were an Ojibwa woman, Joan Martin of Nipigon region, Ontario,[89] a Métis woman, Marguerite St. Germain, of the Peace River region, Alberta, and a Mi'kmaq woman, Margaret Pictou, of Eel River, New Brunswick.[90] Women with enough education found the armed forces an opportunity for personal growth, while others with less education could still work in wartime industries.

While status Indians were enlisting and raising funds, more Indian reserve land was being taken for military use. Indian land that was leased, bought or appropriated was used for many purposes, including airfields, army training camps, internment camps, gunnery and bombing ranges, and coastal defence installations. This land was being taken with the compliance of the IAB – the very agency charged with protecting Indian land – and sometimes against the will of the community involved. Some of it has not been recovered to this day.

By any measure, the participation of Aboriginal people in the country's war effort was significant. Aside from providing needed personnel for the armed forces and essential wartime industries, Aboriginal Canadians contributed through the use of their lands, which were leased or expropriated, as well as through generous donations to war funds and charities.

4.3 Military Service

Aboriginal servicemen were so fully integrated into the Canadian armed forces, particularly the Army, that official records seldom report on them separately. They served in the ranks and shared the same risks as their non-Aboriginal companions.

In going off to war, status Indian servicemen left their reserves, their families and their Indian agents far behind. Many had never been so far from the control of the IAB or so closely involved with so many non-Aboriginal people before. For many Aboriginal men and women, life in the armed forces was a new world in which they were truly equal. For a few, it was a time of bewilderment

and distress, shared by some non-Aboriginal recruits but made worse for Indians and Métis people if they spoke little English, had little education or feared discrimination by the non-Aboriginal majority.

Many volunteers embraced military life wholeheartedly, excelling in their training and earning promotions to lead or train other personnel. Others who seemed unlikely soldiers received honourable discharges and returned home to work in essential war industries; a few went absent without leave. In many respects the experience of Aboriginal people in the armed forces was little different from that of non-Aboriginal personnel.

Aboriginal servicemen and women came from hundreds of different communities, many of them small and remote from major population centres. Only communities in southern Ontario and the Maritimes were close to and in frequent contact with non-Aboriginal populations. Elsewhere, especially in the north and west, many communities and reserves were still very traditional. Few people had worked off-reserve or outside their communities, and most were accustomed to speaking only their Aboriginal languages.

The distance between an Aboriginal community and an Army camp was enormous, in time and culture as well as miles. Since they constituted a racial minority within the military, most Indian and Métis people had to cope with additional stress. It is true that both Aboriginal and non-Aboriginal servicemen had to adapt to the new experiences of training and, later, combat conditions. However, for some Aboriginal soldiers, identity as a soldier often came to rival or even supplant a sense of being Indian, Inuit or Métis. The war years were a turning point for many who served their country, and life would never be quite the same again. Aboriginal veterans, like other veterans, will carry their memories of the war with them forever. Unlike them, however, they also carry a radically changed image of themselves and their place in Canadian society – a sense of being equal, of sharing the load, defending the country together with other Canadians, and being proud of the accomplishment.

All Canadian recruits plunged immediately into basic training, and this was often followed by advanced training, and still more training – at first in Canada and then in Britain, while waiting to be sent into combat. By February 1940, 23,000 Canadian troops were in Britain, destined to remain in training because of the 'phoney war', the lull between the outbreak of war in September 1939 and its resumption in April 1940. After the Allied retreat from Dunkirk in May 1940, Canadian Army units were chosen for experimental attacks on Brittany and Dieppe, with disastrous results. Aboriginal soldiers were among those who died at Dieppe.[91]

Although Aboriginal men had often signed up with friends, sometimes in groups, by the time they were through training they had often lost contact with these friends. Most Indian and Métis people quickly found new friends among comrades who shared the same training, mess, barracks and privations. These friendships were cemented even more firmly under combat conditions, where

race was a minor or even negligible issue, and co-operation, endurance and survival were paramount. The infantry faced the most appalling conditions and suffered the highest casualty rates, and often only the demands of comradeship overcame the urge to flee the battlefield. As one observer put it,

> The soldier became increasingly bound up with his tiny fraternity of comrades who shared his suffering and they alone came to represent the real world. In the last analysis, the soldier fought for them and them alone, because they were his friends and because he defined himself only in the light of their respect and needs.[92]

It was through this process that Aboriginal men came to identify themselves as Canadian soldiers. Battlefield equality redefined relationships among those who served together. Many Indian and Métis veterans attest to the depth of this transformation. For instance, Joe Cardinal of Hobbema, Alberta, related: "For years I believed I was no good, that I wasn't level with anybody else. Over there, on the battlefields, I learned I was just as good as anybody."[93] An Alberta veteran, Charlie Roasting, expressed a similar sentiment, adding that "Today I can stand side by side with anybody, regardless of colour."[94] Saskatchewan veteran Gordon Ahenakew described this aspect of combat duty as follows: "That's when your buddy was your buddy no matter what colour you are."[95]

Aboriginal veterans reported consistently that they did not experience discrimination in the armed forces. Strangers were constantly being thrown together, and bonds of friendship were formed very quickly. Transfers and volunteering for other units contributed to the wide dispersal of Aboriginal servicemen throughout the armed forces; partly as a result of this, cultural isolation was inescapable for many Aboriginal enlistees. Don Morrison, an Ojibwa from the Kenora district of northern Ontario, described the loneliness he experienced while serving in Europe, even though he volunteered for and was generally content with military service:

> [M]any Indian volunteers from remote reserves in Canada found themselves alone in an alien culture, as well as fighting a war. It was lonely at times. The only time I met a guy I could talk to in my own language was somewhere in Belgium at a fork in the road. We were just happy to be alive. We talked a few minutes, said we hoped the Great Spirit was watching us get back home, then we shook hands and took off again in different directions.[96]

For most Aboriginal servicemen, there was less discrimination in the armed forces than in civilian life. Some reported that after discharge they faced discrimination, often more than they remembered existing before the war. As veteran Clarence Silver said, "When I served overseas I was Canadian, when I came home, I was just an Indian."[97]

Indian and Métis recruits were widely dispersed throughout military units and occupations. The forces seemed far more willing to place status Indians according to their choices and abilities than their Indian agents had been. Specialized training was needed for all enlisted men, and Aboriginal men volunteered for training and placement in virtually all facets of the war. This confirms reports by Aboriginal servicemen that there was no systemic discrimination in the armed forces.

Many Métis, Six Nations and Tyendinaga status Indians served in the RCAF. Aboriginal men also served in diverse capacities in the Army: as infantry privates, as riflemen, gunners, machine-gunners, sappers, troopers, bombardiers, cooks, batmen, truck drivers, welders and technicians. They often gained promotions to non-commissioned ranks; many became sergeants and were employed in training other personnel, especially in the use of firearms. It was only their lack of education that excluded most Aboriginal servicemen from commissioned officer status. Lieutenant David Grey Eyes of Saskatchewan and Brigadier General O.M. Martin of Ontario, along with several Air Force pilot officers, were proof that there was no bar to promotion. Indian and Métis soldiers were still valued as snipers, messengers and reconnaissance patrol leaders, as in the First World War, but they were in no way limited to these assignments, as they had other skills as well.

Evidence of aptitude or experience in certain fields often resulted in opportunities for advanced training for many Aboriginal as well as other servicemen. W.F. Wadsworth, a Kanai (Blood) Indian from Alberta, left school to join the forces, where he received advanced training in surveying. His brother, also in the armed forces, was trained in woodworking.[98]

Tom Prince of Manitoba took advantage of every opportunity that came his way in the forces, and he excelled. Having started his overseas tour on guard duty with the Canadian First Corps Field Park Engineers, he quickly seized the chance for combat when volunteers were sought for paratroop training. Promoted to sergeant and returned to Canada as part of the Canadian Parachute Battalion, Prince was among the select Canadians who were subsequently attached to the U.S. Special Forces, also known as the Devil's Brigade. Preparation for this unit included mountain training in Vermont, jungle training in Maryland and snow training in northern Canada.

Prince's value to the military was enhanced by all the training he received. He had already drawn attention for his excellent marksmanship and his expertise in crossing open country. In addition, he was described as one whose "bearing was so impressive that other men forgot his colour and responded willingly to his leadership." Prince's quick thinking, initiative and bravery were also qualities that could not be taught. He was motivated by a very personal goal: "All my life I had wanted to do something to help my people recover their good name. I wanted to show they were as good as any white man."[99]

Like Tom Prince, many Aboriginal servicemen received promotion to non-commissioned ranks because of their demonstrated abilities. In sharp contrast to their previous lives, many Aboriginal servicemen taught and led other men during the war years.

Indian affairs statistics record 200 status Indians among the war dead. Historian F. Gaffen says the figure is 220.[100] If casualty rates among Métis and non-status Indians were comparable, Aboriginal deaths during the Second World War reached 500. Many hundreds more were wounded, some severely. Aboriginal servicemen wounded during the war were entitled to, and for the most part received, the same quality of care given to soldiers from the general population – often for the first time in their lives. Many underwent treatment for wounds in field hospitals and then in British hospitals before being returned to Canada.

War losses hit Aboriginal communities very hard. The men who never came back were among the young, strong, educated and healthy segment of the community – in many cases, a small number to begin with. The ranks of Aboriginal servicemen included many decorated heroes, some of whom never returned home. Private Huron E. Brant, Military Medal, of Tyendinaga, was killed on 14 October 1944. Corporal Welby Lloyd Patterson, Military Medal, of Six Nations, died on 14 April 1945. Corporal (Acting Sergeant) George Alexander Campion, Military Medal, of Tofield, Alberta, died on 23 May 1944.[101] These men, and others like them, demonstrated initiative, courage and leadership, qualities that would have greatly enhanced their communities in the post-war years.

Tom Prince was among Canada's most highly decorated non-commissioned officers of his time. His exceptional service is especially significant because he set out to demonstrate that he and his people were the equals of any Canadians, and he worked extremely hard to excel. The citation for his Military Medal read, in part, "Sergeant Prince's courage and utter disregard for his own safety were an inspiration to his fellows and a marked credit to his unit." Prince was also later awarded the U.S. Silver Star while serving with the First Special Service Force in France. Part of that citation read: "The keen sense of responsibility and devotion to duty displayed by Sergeant Prince is in keeping with the highest traditions of the military service and reflects great credit upon himself and the armed forces of the Allied Nations."[102]

Tom Prince wanted his achievement to reflect glory upon his people, and he never failed to remind fellow soldiers that he was an Indian. He also talked about his home reserve for several minutes with King George VI while the king pinned on his military medal at Buckingham Palace.[103] Prince was proud, too, to return home to his reserve with his medal collection on display. Two important goals that drove Tom Prince throughout the war years, and afterward, were to help his people regain pride in themselves and to gain the respect of all Canadians. Not content with battlefield equality, he strived to be more than equal, but not just for himself.

4.4 Veterans Benefits

Alienation of reserve lands

By the middle of the war years, veterans and bureaucrats were already considering how more lands could be obtained for returning Canadian veterans. As early as 1943, H. Allen, Edmonton district superintendent, had corresponded with W.G. Murchison, director of soldier settlement, on the subject of securing Indian reserve lands:

> There is one department of which our minister Mr. Crerar is the head who do have surplus land on their hands from time to time, i.e. the Department of Indian Affairs.... [S]ome of these lands are the finest in the district in which they are situated. I particularly refer to Saddle Lake near St. Paul, Fairview and Berwyn in the Peace River district, the Blackfoot reserve near Gleichen, near Ponoka at Hobbema, and there are possibly others.[104]

Indian land at Saddle Lake was also being eyed by members of the Royal Canadian Legion at St. Paul, who wrote to the IAB in 1944 urging that this good Indian land, guaranteed by treaty, be set aside for returning veterans. However, T.A. Crerar, minister of mines and resources and therefore responsible for the IAB, informed the St. Paul Legion that the Saddle Lake Indians had little enough land left, having surrendered 18,720 acres to the Soldier Settlement Board after the first war. Crerar therefore turned down that request, but the IAB did approve the surrender of 7,924 acres in the Fort St. John area, at a bargain price of less than $9 per acre.[105] The land purchased in the west after the Second World War was pooled with land that still remained from major surrenders for First World War soldier settlement, to be made available once again to returning soldiers.

There is considerable injustice in the fact that while Indian land was being coveted to settle returning Canadian veterans, Indian veterans were not even being accommodated in the drafting of a new *Veterans' Land Act* (VLA). The IAB sent out a circular on 3 March 1945: "It is a matter of regret that no commitment of a positive nature can be made to Indian returned men at this time...". According to the acting director of Indian affairs, R.A. Hoey, if the Indian veteran chose to settle off the reserve, he would encounter little difficulty. Theoretically, "he would be in an identical position as any other returned soldier."

As was the case after the First World War, however, the greatest fear for status Indians was to be forced to enfranchise as a result of having settled off-reserve – which made Hoey's statement misleading, either wilfully or ingenuously. The promise of land was the most advantageous single benefit to the Aboriginal soldier and veteran, although two circumstances were working against him from the start: first, no provision was being made for reserve Indian veterans under the VLA. Second, early in the war the IAB had already inserted itself

between the Indian soldier and the government departments responsible for soldiers' welfare. The experience of status Indian families with the dependants' allowance, which was normally provided directly by the defence department, set an ominous precedent for later administration of the VLA.

The dependants' allowance

Early in the war, many men were enlisting because of the financial benefit of service pay. An additional inducement was the special allowance offered to men with wives and children, the dependants' allowance. These payments were administered by the Dependants' Allowance Board (DAB) of the defence department, and they considerably augmented a soldier's pay. Status Indian men were reminded of this special benefit by recruiting officers and the Indian agents assisting them.

In 1939, the dependants' allowance was outlined as follows: "$35.00 separation allowance to a wife, $12.00 each, first and second children, 15 days pay, $20.00 minimum". However, Robertson, an IAB inspector, argued that this sum was "...a great deal more than they have ever received... a great deal more than they actually need", and he recommended "arrangements whereby the allowance to Indian dependants could be made payable to our department".[106]

Although widely touted by recruiting officers and Indian agents as a tangible benefit, it seems the dependants' allowance was not a sure thing. As early as December 1939, IAB secretary T.R.L. MacInnes wrote:

> With reference to the enlistment of Indians in the Canadian Active Service Force, consideration is being given to having Dependants' Allowance and Assigned Pay of soldiers residing on reserves mailed in care of the Indian Agent... Some of the dependants could maintain themselves on an amount in some cases considerably less... agents could persuade them to leave a portion of their funds in an Agency Saving Account.[107]

It was also decided that children of an enlisted status Indian would not be considered eligible for the allowance while attending a residential school. In addition, in 1942 the IAB advised all agents that dependants in sanatoriums or hospitals did not qualify for the allowance.[108]

The DAB was initially reluctant to alter its policy to suit the IAB: "We have no authority to actually pay the money to other than dependants of the soldier."[109] Some agents wrote to the DAB directly, insisting that cheques be sent through them; one even directed that the cheque for some soldiers' wives be made payable to him.[110] Agents already had power over the entire process of obtaining the allowance, since decisions about who was eligible depended on agents supplying DAB with information on the merits of each case.

In several cases problems were said to have resulted from paying dependants' allowance and assigned pay to soldiers' wives on reserves. Some IAB

administrators claimed: "Indian women are the prey of all kinds of crooks and deadbeats... they are also preyed upon by other Indians who find their homes good places to get free meals." Further, some women were being followed about by the "the scum of the land."[111] An example was given by agent R.L. MacCutcheon of Fredericton: used car dealers were going onto the reserves without his permission and trying to sell "some old useless car" to women whose husbands were overseas.[112] In response, the defence department suggested "...that in the case where an allowance is claimed for either an Indian or a half-breed the Board might be justified in cutting the amount because it certainly would be putting these folks in a class by themselves...".[113]

The DAB proceeded to make reductions, arbitrarily reducing by half the dependants' allowance paid to wives of Indians living on reserves. Not only Indian wives but many responsible agents reacted angrily. Agent J.P.B. Ostrander wrote to the IAB secretary, T.R.L. MacInnes: "I certainly do not think that we have any right to say that the allowance of an Indian woman should be any less than that of a white woman dependant... [To give an Indian woman less is] contrary to the principles for which this war is being fought...".[114]

Superintendent M. Christianson in Regina also reacted strongly to this development: "Why was this not told to the Indian soldiers at the time of enlistment?" He also argued that Indian children should be classed as dependants while on holiday from residential schools and that Indian women's expenses should be considered comparable to those of non-Aboriginal women in small towns or on farms. Christianson disagreed with the negative things being said about Indian women by agents, maintaining that "...most of the time, and particularly where we have good agents, the women make very good use of their money. For instance, many of them are improving their homes, buying War Savings Certificates or funding their money with the department...".[115]

The DAB reversed its stance, but only on condition that Indian women agree to invest part of their money. Indian agents were expected to ensure that recipients of the allowance set aside money at a rate that depended on the number of children claimed. However, the DAB soon objected to the agents' methods:

> This Branch [the IAB] has been advised by the DAB that in some instances Dependants' Allowances in administration by Indian Agents have not been passed through the Indian Agency Trust Account. It is also pointed out that in some cases cheques sent in care of the Indian Agent, instead of being handed over to the dependants have been withheld in part without being accounted for as Trust Funds.[116]

When the war was approaching its third year, the IAB devised procedures for administering the allowance, and they included the suggestion that agents document every instance and be prepared for "government audit". There were some responsible agents, but others were quick to take advantage of the situation.

There is little doubt that some funds vanished, whether through bad administration or fraud.

Increasing the power of Indian agents

It is also clear that the pattern would continue. It was decided that the IAB, on behalf of the department of veterans affairs (DVA), would administer all benefits owing to Aboriginal soldiers returning as veterans to live on reserves. This repeated the experience after the First World War, when Indian affairs assumed responsibilities for status Indians that would otherwise have belonged to the department of soldiers' civil re-establishment. This measure led to a new set of injustices for Canada's Aboriginal veterans.

For one thing, it enhanced Indian agents' control to a level that would be unthinkable today. Benefit applications were the responsibility of local agents, many of whom could not shake off their pre-war attitudes toward Indians as inept wards. These agents consistently undervalued Indian capacities, scorned their ideas, and failed to interpret benefit plans to their advantage. Indian agents became the key intermediaries for all status Indians who wanted to obtain benefits.

The benefit plans for veterans were complex, with several mutually exclusive elements. Agents were relied on to interpret the criteria that had to be satisfied and were responsible for filling out and endorsing applications. All knowledge of possible benefits usually came through the agent – who also assessed a veteran's eligibility for any benefit.

Indian veterans had no access to veterans affairs administrators, as we have seen, since IAB personnel had taken over their responsibilities. In addition, Aboriginal veterans seldom had access to Royal Canadian Legion branches and newsletters. These were very helpful to most other veterans, informing them about the benefits available and helping them find out how to obtain them. In addition, they provided a useful means for discussing and comparing experiences on the subject. However, status Indians were usually barred from participation in the Legion, because Legions served liquor, and Aboriginal men subject to the *Indian Act* could not attend functions where liquor was served. Exclusion of Indian veterans from Legions was extremely discriminatory, considering they had fought, been wounded and died alongside their non-Aboriginal comrades. But the *Indian Act* was inflexible on the issue of access to liquor. In only a few locations, such as Tyendinaga, did status Indians enjoy Legion membership. This exclusion served not only to separate Indian veterans from their wartime companions, but also jeopardized their receipt of veterans benefits.

4.5 The *Veterans' Land Act*

While the *Veterans' Land Act* was the most important benefit for veterans, IAB director H. McGill was sceptical about its applicability to reserve conditions. In

mid-war he wrote: "It might be advisable to encourage Indians discharged from the army to become enfranchised."[117]

Early on, many Indians in western Canada had expressed scepticism about how veterans benefits would be adapted for them. D.M. MacKay, the Indian commissioner for British Columbia, wrote in 1944 that "for some time in the past the Indians on the coast when urged to enlist have insisted that they will not receive the same treatment as white persons when discharged from the Army...". Commissioner Mackay and M. Christianson, the general superintendent of Indian agencies at Regina, asked the IAB what provisions were being made for Indians on reserves. Other IAB officials were also concerned about the lack of provision for Indian veterans as late as 1944.[118]

The preamble to the original *Veterans' Land Act* included the rationale that agriculture was a good means to rehabilitate veterans, that part-time farming coupled with employment was "an increasingly important aspect of rural and semi-rural life in Canada", and that it was in the public interest to help veterans become owners of "farm homes", since most veterans had few assets.[119] The act went on to offer agricultural training and the opportunity for veterans to purchase, from the VLA, "land and improvements there-on, building materials, livestock and farm equipment up to a total cost to the Director of six thousand dollars." The veteran had to pay the first 10 per cent of the cost of the property, plus any amount in excess of $6,000. Of the $6,000 loan, $2,320 was forgivable, and the balance was payable over 25 years at the low interest rate of 3.5 per cent per year. The VLA plan was adapted for commercial fishing on a similar basis. Title to all property remained in the hands of the director of the VLA until the loan was paid off, although the director had the authority to transfer title to livestock or farm equipment if he deemed it advisable.

The VLA altered for veterans living on-reserve

In 1942 the VLA was revised to make adjustments for Indian veterans living on reserves. Ian Mackenzie, the minister responsible for the DVA, tabled a bill in the House of Commons to confirm the various orders in council amending the VLA already in place under the *War Measures Act.*

The veterans affairs committee explained to Parliament that a special amendment would be necessary to allow settlement "on provincial crown lands, upon Indian lands, and upon land within national parks or otherwise vested in the crown in right of the dominion."[120] Since Crown land could not act as security for loans, it was decided that no loan could be awarded to Aboriginal or non-Aboriginal veterans who settled on those lands; instead, they would get a direct grant of $2,320 applicable to farming, fishing, forestry or trapping. The measure was praised for allowing veterans from frontier regions to return home and still receive VLA support.

The departments of veterans affairs and mines and resources agreed that this provision would, likewise, be appropriate for Indians on reserves. As for Parliament, records of House of Commons debates show that the intention of elected members was to make adequate provision for Canada's Indian veterans: "...for the purpose of ensuring that members of our Indian bands, who have served nobly in the war, shall not be denied assistance in settlement upon lands within Indian reserves." It was the departments that advanced the argument that a new revision was needed, since "titles to Indian Reserve lands may not be alienated or hypothecated", making the act, as it stood, inapplicable to Indians on reserves.[121] The provision for status Indians on reserves (section 35A), read as follows:

1. The Director [of the VLA] may grant an amount not exceeding two thousand three hundred and twenty dollars to an Indian veteran who settles on Indian Reserve lands, the said grant to be paid to the Minister of Mines and Resources who shall have the control and management thereof on behalf of the Indian veteran.
2. A grant made pursuant to subsection one of this section shall be disbursed by the Minister of Mines and Resources on behalf of the Indian veteran only for one or more of the following purposes:
   (a) the purchase of essential building materials and other costs of construction;
   (b) the clearing and other preparation of land for cultivation;
   (c) the purchase of essential farm livestock and machinery;
   (d) the purchase of machinery or equipment essential to forestry;
   (e) the purchase of commercial fishing equipment;
   (f) the purchase of trapping or fur farming equipment but not breeding stock;
   (g) the purchase of essential household equipment;
   (h) the acquisition of occupational rights to lands, vacant or improved, located within the boundaries of any Indian reserve.
3. An Indian veteran on whose behalf a grant has been made under this section shall not be entitled to enter into a contract with the Director under section nine or section thirteen of this Act, and an Indian veteran who has entered into a contract with the Director under section nine or section thirteen of this Act shall not be eligible for a grant under this section.[122]

These new stipulations meant that, unlike other veterans, Indian veterans returning to reserves could not use the VLA to purchase land. In addition, they were not eligible for the $6,000 loan with the forgivable portion that amounted to a maximum of $2,320. The effect of section 35(A) was that, irrespective of the regulations in the original VLA, Indian veterans on reserves had to submit their

applications for the VLA grant to an IAB agent. Furthermore, before that grant could be approved, the director of the VLA had to receive the following additional documents from the Indian agent:

1. a certificate respecting the military service eligibility of the Indian applicant;
2. a certificate that the applicant is qualified to engage in the occupation he proposes to follow;
3. a certificate that the land to be used or occupied by the Indian veteran is suitable for such use or occupation;
4. a recommendation as to the amount of the grant which should be approved and the several purposes for which such grant should be expended.[123]

Aside from introducing new conditions, these special amendments effectively gave the local Indian agent control over Indian veterans' access to the VLA grant if they lived on-reserve.

Criticism of the amended VLA

Critics called this revised VLA discriminatory. The IAB defended it by responding that "an Indian veteran could settle, without the need for enfranchisement, outside the reserve, and do so under the same conditions as any other veteran."[124] However, few Second World War Indian veterans would trust this assurance – given the IAB's record of trying to force enfranchisement on Indians, especially through the compulsory enfranchisement amendments to the *Indian Act* in the 1920s.

For all Indian veterans returning to a reserve, this revised VLA eliminated the loan of $6,000 and replaced it with a grant of $2,320. This was not an equivalent benefit. The IAB claimed that the loss of the loan was balanced by the "more favourable conditions" that existed on reserves. However, other veterans who got the $6,000 loan had the benefit of the forgivable 24 per cent of that total, up to a maximum of $2,320, and, as we saw, they could repay the remainder at the favourable interest rate of 3.5 per cent.[125] In addition, veterans who paid off the initial loan were eligible for further loans from the DVA[126] – to say nothing of having acquired collateral as security for commercial loans. Since reserve Indians could not satisfy the requirement for further DVA loans, they were ineligible for them; and since the VLA was not helping them establish a credit record, unlike non-Indian veterans, they could not count on securing further commercial loans. Cabinet itself noted, in making its revisions in April 1945, that, as Indian land could not be "alienated or hypothecated" – that is, neither repossessed nor mortgaged – those living on it had no collateral to guarantee any loans.

In fact, the VLA loan was the key benefit lost to Indian veterans, and the IAB could have done something about it. It could have acted in the best interests

of on-reserve veterans and guaranteed their VLA loans. Alternatively, since it controlled the trust fund accounts in the hands of most band councils, the IAB could have arranged for these bands to guarantee the loans for their own veterans. Taken together with its assurances that Indians could obtain full benefits by settling off-reserve and with earlier suggestions that veterans should be persuaded to enfranchise, this absence of flexibility and imagination on the part of the IAB clearly indicates its lack of will to serve veterans on-reserve.

The loan provisions of the *Veterans' Land Act* were not the only benefits placed out of reach for Indian veterans. They were also denied access to the small business loans available to other veterans, which would not have occurred had the IAB applied some imaginative planning. Referring to Indian veterans "who had served as mechanics or drivers in the Canadian Army" and who wanted to set up in similar enterprises after the war, the Saskatchewan Indian veterans report concludes that: "The files show that invariably these veterans were not told of the small business loans available, but were turned down under VLA agricultural provisions under the rule that 'motor trucks' were not a permissible item for purchase."[127]

The IAB had to respond to a barrage of criticism about how provisions had been altered to the detriment of Indian veterans on reserves. It went to great lengths to explain to its agents not only how to administer veterans benefits, but how to account for the differences:

> It might also be pointed out that since the Indian settling on an Indian reserve has no taxes to pay and no repayment to make, his entire income, after deducting living expenses, may be applied to improvement of his property.
>
> An Indian settling on an Indian reserve also enjoys other advantages not available to a Veteran, white or Indian, locating outside an Indian reserve. Some of these are:
>
> - The advice and assistance of the Indian Agent and Farming Instructor.
> - The use of Departmental or Band equipment and facilities.[128]

Status Indian veterans felt there was scant privilege in their presumed on-reserve 'advantages'. Several aspects of the VLA concerned them. The privilege of sharing the community horse and plough would be of little advantage when veterans needed tractors and other modern tools to compete in commercial agriculture. Also, as we saw, fear of enfranchisement remained high, so settling off-reserve seemed risky. Some individuals were having trouble obtaining location tickets for parcels of land in their home reserves; without a confirmed ticket, they could not obtain any part of the revised VLA grant. Of course, a location ticket had far less value than a deed. Legal acquisition of Crown or public lands cannot be equated with mere permission to occupy a portion of land in which

one already has a share as a band member. Ownership of land would guarantee the veteran property to sell when he chose to retire. As John Tootoosis said, "We lost a lot of Indian boys for you in two World Wars, and the ones who came back were just given a piece of land that was already theirs before they left."[129]

Abuses of Indian agents' power

The IAB's alterations in the VLA gave Indian agents full discretionary power over whether an Indian veteran was even considered for a grant. As we saw, on-reserve Indian veterans needed to obtain from the agent the three additional certificates required by the amended VLA (attesting to the applicant's eligibility and qualifications and to the suitability of the land for its stated purpose), as well as the IAB agent's written recommendation as to the amount of money needed and the list of items for which that recommended amount might be disbursed. The IAB produced a steady stream of instructions over the next few years to guide agents in implementing the relevant regulations. There were many cases that raised doubts about the fairness of agents' judgements and even about their familiarity with the various benefits available.

Opposition in some bands to the allocation of land to veterans by location ticket gave one Indian agent an excuse to hold up benefits in his district.[130] He was later reprimanded by Inspector Ostrander for ignoring three letters in as many months from the VLA administration regarding one Indian veteran's application. As Ostrander commented, "This could not be considered cooperation on our part, when, at our request, the Department of Veterans Affairs have withheld all applications for Re-establishment Credit until they receive the approval and recommendation of the Indian Agent."[131]

In short, two main obstacles stood in the way of access to veterans benefits for Indian people living on-reserve: first, the policy that surrendered control of all veterans benefits for status Indians to the IAB; and second, the policy that all but made Indian agents the advocates as well as the judges of every application's merits – which in turn gave rise to arbitrary and inefficient practices.

Arbitrariness and inefficiency often had profound ramifications, since an agent's behaviour could have long-term consequences. For instance, veterans who did not receive a grant or loan to start farming or a small business soon had to look for regular employment. Work was increasingly scarce after the war, and some Aboriginal veterans reported racial discrimination in hiring practices. Many could get work only by being willing to relocate, with the result that some veterans ended up working in the United States.

Even when a veteran's VLA application was accepted, he had to go through a lengthy and demeaning process before actually obtaining the funds. The VLA grant was paid to the department of mines and resources, which held the money in trust for the veteran. Besides occasioning endless delays for the veteran, the

voucher, receipt and payment system took up a great deal of time for both agents and office personnel. It also created opportunities for fraud – another obstacle between veterans and their benefits. The IAB reserved ownership of all materials and chattels purchased under the VLA grant for a period of 10 years; after this period of 'supervision', title passed to the Indian veteran.

Many Métis and non-status Indian veterans also had great difficulty obtaining veterans benefits, often because no one had bothered to inform them about their options.[132] Many had come from remote northern communities with limited communications facilities and no DVA branches or Legions. Language was sometimes a problem, and the bureaucracy was often just too difficult to cope with. Some prospective applicants faced yet another problem – there was sometimes no land considered suitable for agriculture. Some Métis veterans were settled on Crown lands and received the $2,320 grant instead of the $6,000 loan available to most veterans. The reason for not getting the VLA loan was not made clear and, in many cases, it became a source of resentment.[133]

For Métis veterans in the agricultural southern prairies, benefits were more accessible, although they still needed to be very determined in the face of the grudging attitude of the bureaucracy. Problems were widespread and varied. One non-status Indian veteran, Kenneth Edward Harris, a Gitksan from British Columbia, reported hardship in pursuing his career as a commercial fisherman after the war, even though the manager of a cannery offered to build him a new gill net vessel if he could obtain a VLA loan. He was bureaucratically referred back and forth between DVA and IAB as he attempted to prove that he was eligible as a non-status Indian. "I was back and forth like a puck in a hockey game."[134] Failure to get the loan meant he could not finance his re-entry to the fishery, even though he was experienced and able. He saw his difficulties in obtaining benefits as a lack of respect for the sacrifices he had made in going to war for his country.

The enfranchisement route to veterans' benefits

Some status Indian veterans were susceptible to suggestions that they should enfranchise, very likely because of their frustration with the Indian agent intermediaries, the inequity in benefits available through the act and its amended version, and the seemingly endless wait for benefits to be awarded. Many were being advised by agents that enfranchisement was the secret to getting all the veterans benefits quickly. There are no precise figures identifying those who enfranchised in hopes of expediting the receipt of benefits or getting the level of benefits to which non-Aboriginal veterans were entitled, as the only available statistics include many other people who enfranchised in the same period. However, a pattern can be discerned: there was a significant increase in enfranchisements in the years 1944 to 1950, from a low of 45 in 1942-43 to a high

of 447 in 1948-49, and this increase surely includes many Second World War veterans.[135]

The portrayal of enfranchisement as the easy solution was misleading to Indian veterans. Although loans would technically become available, a man without a home or community, isolated from family, and often without a job, was a poor credit risk. In addition, the grant that the veteran might have received on the reserve was, of course, no longer an option. He might get 'awaiting returns' if he started a business;[136] also, he was certainly eligible for a re-establishment grant if he could demonstrate that he had a viable idea for a new start. However, the odds were against newly enfranchised veterans. Most Indians stayed on their reserves and accepted lower veterans benefits, although not without protest.

5. The Post-War Years

The issues surrounding benefits, among other problems, brought Indian veterans returning from the Second World War face to face with an old enemy: the IAB's wardship approach. Most had experienced equality overseas, they had seen how the outside world was run, and many had gained new status as warriors. These veterans would form a new leadership class that would challenge not just the IAB but the older tribal leaders. Veterans became agents for change on their home reserves and on the national scene.

Indian veterans were welcomed back wholeheartedly to their own communities. Receptions and feasts were organized to honour the returning men, as well as the older First World War veterans. They were given an opportunity to recount their experiences, the close calls they had survived, and the places they had seen. As happened with other veterans, many could not yet talk about the real horrors of war, or the friends and brothers they had lost. Some avoided the spotlight of public recognition or were wounded so badly that they did not return for months or years after the war. Others revelled in the attention, however, and quickly moved into the public eye on the political scene as well.

Aboriginal politics had been far from dormant during the war years. The war had acted as a catalyst. Some of the Indian leaders during the war years were First World War veterans, and they were joined by the new veterans of the recent war. Together, they formed "a cadre of war veterans...who were warriors and brought the discipline and determination of that service home for the service of their communities."[137]

Although Indian veterans may have been well respected in their own communities, outside the reserve they were often not treated as equals, denied employment and refused permission to join fellow veterans at the Legion. This was often a bitter disappointment. One such veteran reported "I could not

understand why it was so embarrassing to come home... my people looked up to me as a veteran and then saw me being treated like dirt."[138]

During and immediately after the war there was tremendous growth in Indian political activity, resulting in the formation of many new or reorganized associations. The Union of Saskatchewan Indians, established in 1946, built upon the foundation of the pre-war League of Indians in Western Canada. Important organizations elsewhere included the Indian Association of Alberta, formed in 1939, the Union of Ontario Indians, established in 1946, and the Indian Association of Manitoba; there was even a 1946 attempt at a nation-wide Indian organization, the North American Indian Brotherhood. All three prairie associations owed much to the League of Indians of Western Canada, which had been formed in the 1920s.[139]

Among Second World War Indian veterans who achieved some prominence on the political scene were Walter Deiter of Peepeekisis, Saskatchewan, Omer Peters of Moravian on the Thames, Ontario, and Tom Prince of Brokenhead, Manitoba.

The life of Tom Prince exemplifies the many frustrations and struggles facing returning veterans. Prince had always asserted that he was in the war to prove to the world that his people were just as good as any others and fully deserving of equality. By the time of the hearings of the joint Senate and House of Commons committee in 1946-47, at which he gave lengthy testimony, Tom Prince was representing his own band (as chief, according to the proceedings of the hearings), as well as the Indian Association of Manitoba. The committee was extremely impressed with Prince, although he sometimes took positions his own band council disagreed with – such as his emphasis on raising agricultural production aggressively on the reserve and working toward elimination of the *Indian Act*.[140]

Prince became increasingly frustrated with his inability to bring about change in the immediate post-war years, and when the Korean War broke out he quickly re-enlisted. However, an injury and aggravated leg problems incurred during the Second World War saw Tom Prince return home to Canada before the end of the Korean conflict. Still in uniform, he was assigned a secure job as a sergeant instructing new recruits, although he missed combat, where he had excelled. Because of his arthritic knee, Prince was discharged from the armed forces in 1953. On 25 November 1977, he died in poverty at the age of 62. He was honoured by the Princess Patricia Canadian Light Infantry at his burial service.

Prince's heroic efforts during the wars did not achieve his goal of seeing his people become true equals in Canada. The National Indian Brotherhood (now the Assembly of First Nations) recognized his efforts, as well as those of Walter Deiter and Omer Peters, among others, paying tribute to these veterans through the establishment of the Heroes of Our Time Native Scholarship series. The Assembly of First Nations administers this important fund today, linking Indian veteran political leaders with the present generation.

5.1 The Parliamentary Hearings of 1946-47

Tom Prince was typical of the many Indian veterans who became actively involved in hearings on the *Indian Act* held by a joint committee of the Senate and the House of Commons in 1946-47. The hearings resulted, to a considerable extent, from efforts by Canada's Indians during the war. Many non-Aboriginal veterans had become friends with Indians and had learned something about conditions on reserves. Public interest had been stimulated through the greater visibility of Indian and Métis people during the war, in agriculture and industry as well as in the armed forces. The media had raised the profile of Indians through many articles about their part in the war, and several members of Parliament had become interested and concerned about inequities confronting Indian and Métis people in their own constituencies, both during and after the war. Some of these MPs sat with the joint committee during the hearings, and they were among the most able and informed critics of the IAB officials who testified.

The proceedings of the joint committee reveal the concern of Indian veterans and non-veterans alike about the blatant inequalities in services to Indian veterans. Indian leaders who had become politicized during the war were now prepared to take full advantage of this opportunity to air their grievances. Ironically, the opportunity very nearly eluded them: the committee spent a lot of time listening to ministers, teachers and IAB officials and had to be persuaded by Indian leaders that their testimony was vital. Although the testimony of Indian organizations and individuals emphasized the need for action on some very old grievances, most had to do with the problems experienced by Indian veterans.

Some of the strongest concerns about veterans were voiced by the Union of Saskatchewan Indians, which maintained that

> Indian veterans should be accorded the same benefits as other Canadian veterans.
>
> Thousands of Indians volunteered in two world wars, fought and many of them died. [They] should enjoy equal benefits under the provisions of The Veterans' Land Act...
>
> Indian veterans desiring to farm lands outside the reserve under the provisions of The Veterans' Land Act should enjoy equal rights with white men without loss of treaty rights.[141]

The Union of Saskatchewan Indians wanted the repeal of section 88 of the *Indian Act*, which had allowed "the Superintendent General [of the IAB] to acquire Indian reserve lands for purposes of the settlement of soldiers under the Soldier Settlement Act, without the consent of the band in possession of such lands."[142]

Virtually every delegation from an Indian organization or community, whether large or small, made its point about the contributions and rights of Indian

veterans. The Wikwemikong Band Veterans Association of Manitoulin Island, Ontario, the North American Indian Brotherhood, and the Six Nations Elected Council were among the many delegations. As for B.C. Indian veterans, Colonel Douglas S. Harkness, MP for Calgary East, asked whether they had "experienced any difficulty in getting the $2,300 grant for the purpose of going into the fishing business or building homes on the reserve". Guy Williams of the Native Brotherhood of British Columbia responded, "I do not know [of] a single case of the $2,300 being obtained and I have been the business agent of the native brotherhood for three years. Some of the boys have come to me and I can do nothing for them so I send them to the commissioner [McKay] or to the Indian agent." An Indian affairs representative, Colonel Neary, added that he did know of one man from Cowichan who had obtained $2,300 for nets and a fishing boat.[143]

Among the injustices the joint committee heard about was the government's response to the urgent need for land for air bases and army training grounds during the war. In many regions of the country, it had turned to Indian reserves for a quick solution. Land was often leased, and sometimes it was purchased. In the following case, however, reported to the special joint committee by Chief Frank Bressette of the Kettle Point Band, the land was expropriated outright:

> While they [young men] yet shouldered arms and fought on the bloody battlefields of Europe for freedom for liberty for the belief that "right makes might" they learned that our little Reservation was lost not to the enemy but to our great White Father.
>
> Two of our lads paid the supreme sacrifice. ...We the people of Kettle and Stony Point Band of Indians demand that our former Reservation which is now Camp Ipperwash be restored to us, pay us the rent which is due to us along with damages for same.[144]

The appropriation of the Stony Point reserve took place in 1941-42 in southern Ontario.

The term 'land given up', which became part of the parlance of the IAB at the time, obscures the amount of negotiating and the pressure to comply that characterized land surrenders for military use. In many cases, even a lease was opposed by the band council involved. At Six Nations, for instance, there was a great deal of opposition to the lease of land for a practice bombing ground. The entire Stony Point reserve of 1,034 hectares (2,555 acres) was appropriated when the band and negotiators were unable to agree to the terms of the lease.[145]

The committee members made many perceptive comments and offered useful suggestions concerning resettlement of Indian veterans, but IAB representatives showed no inclination to make significant changes to benefit veterans and often appeared defensive and inflexible. In one case, John R. MacNichol, the MP for Davenport, asked IAB director R.A. Hoey what provisions were being made for the returning veterans of the Blood Reserve. He suggested that the

department install pumping and transmission facilities on the St. Mary's River, which ran through the reserve and was being dammed. Mr. MacNichol hoped this would enable the Indian veterans to make a start in irrigation agriculture, like neighbouring non-Aboriginal farmers; he cited an example in the United States where Indian veterans were being granted 80 acres of irrigable land. Director Hoey's reply was terse: there were no plans for Blood Reserve veterans.[146] Neither was there a positive response to many other situations raised by committee members.

To all appearances, the IAB was an immovable object; all the concern, even the indignation of committee members, had little impact. Their humanitarian impulses seem to have been lost in the sheer volume of testimony and subsequent recommendations about revising the *Indian Act*. No immediate concrete action resulted from this opportunity to expose inequities in the administration of benefits to Indian veterans.

5.2 The Korean War

While the Aboriginal veterans of the Second World War were still struggling to secure veterans benefits, a new conflict erupted. North Korea invaded the south in June 1950, and the response of the United Nations was to call on several member nations to contribute troops to a United Nations Special Force. In Canada, the Princess Patricia Canadian Light Infantry was designated, and volunteers were trained and equipped for this new theatre of war. Among the 26,000 Canadians who eventually served in Korea there were many Aboriginal servicemen, mostly in the Army and the Navy. Like their non-Aboriginal counterparts, the Aboriginal men who came forward included Second World War veterans, career military personnel and fresh recruits. As we saw, Tom Prince was among them. A career naval officer, Petty Officer (later Chief Petty Officer) G.E. 'Ted' Jamieson, of Cayuga and Mohawk origin, sailed for Korea on HMCS *Iroquois*; and Claude Petit, a Métis man from Saskatchewan who was too young for the Second World War, was also quick to enlist for Korea.

To many Korean veterans, this war became a forgotten one, far overshadowed in the historical record by the two world wars. It was not until the eve of Remembrance Day 1991 that the government of Canada honoured veterans of the Korean conflict with the Canadian Volunteer Service Medal for Korea at a special Parliament Hill ceremony. Much like the Aboriginal veterans who fought in both world wars, those who fought in Korea believe that benefits have been limited unfairly. Many of them are now actively helping older Second World War veterans to seek benefits long overdue to them.

Before 1981, neither local nor provincial Indian veterans' associations were getting satisfactory replies from the government about inequities and mismanagement of veterans benefits. To increase their impact, veterans from across

the country established a national association, the National Indian Veterans Association (NIVA) on 7 April 1981. Its first national convention was organized in 1986.

NIVA compiled a report based on data collected from individual Indian veterans across the country. Entitled *Report Based on Profiles of Native Veterans and Survivors Relating to Independent Living For People With Disabilities*, the report highlighted many individual grievances and problems ranging from imprisonment over NRMA call-up, through VLA shortfalls, to denial of health and pension benefits and related fraud. The study revealed that injustices against Aboriginal veterans were far more widespread than had been brought to light by the 1946-47 joint committee hearings.[147]

During its short existence, NIVA made some progress toward uniting veterans in a common front. However, the struggle to obtain equal benefits did not progress as well. Government funding that had been promised for a five-year survey of Indian veterans and their benefits was cut off arbitrarily, and NIVA ceased to exist.

In the 1990s, with help from the Native Council of Canada (now the Congress of Aboriginal Peoples), Aboriginal veterans have made renewed attempts to gain recognition of service and acknowledgement of the benefits they were denied. The National Aboriginal Veterans Association (NAVA) was founded in 1992, with branches in many provinces. It has provided a forum for renewed discussion, research and calls for action. This Commission invited Aboriginal veterans and intervener groups such as NAVA to give testimony about Aboriginal veterans' personal experiences.

5.3 Testimony at the Royal Commission's Hearings

Testimony at Commission hearings from veterans of the Second World War and the Korean conflict was entirely consistent with that given 50 years earlier, the only difference being that the Second World War veterans were elderly, often frail, and their ranks had been thinned by the deaths of many of their comrades from the war years. Younger veterans of the Korean conflict and veterans' intervener groups like NAVA often accompanied these older veterans, providing transportation, interpretation services and support. The veterans of Korea reported some areas of shortfall: they too received their benefits as veterans through the IAB in the 1950s, because the branch had insisted on the value of its experience serving the veterans of two world wars.[148] However, most of the grievances reported dated back to the Second World War.

The action of the federal government in providing recognition, apology and financial compensation to Japanese Canadians displaced during the war sharpened the sense of loss and discrimination for many Aboriginal veterans and their supporters.[149] They had served overseas, seen their brothers and best friends

die, experienced equality during the war and then come home to a nation that did not seem to care. As one veteran put it, "We as Aboriginal veterans got fooled...we got acclimatized to the non-Native way of living through the war years, and for a period of time we became equal in the non-Native world, or so we thought. Upon return to civil life, and back on the reservation, our bubble soon burst."[150]

Veterans listed the problems they encountered on returning with remarkable consistency. Obtaining recognition from the government and people of Canada was foremost in their estimation. Fundamental to any further action the government might take is an honest appreciation of the contribution of Aboriginal veterans. Aboriginal veterans emphasized that they want *equal* benefits, not special ones. They were equal at war, and they should have been treated equally when they returned.

The veterans who spoke to the Commission testified that they received little or no information about the veterans benefits available to them, and they consistently reported discrepancies in the following benefit areas:

- the Rehabilitation Grant and War Service Gratuity;
- the dependants' allowance;
- the revised *Veterans' Land Act* for on-reserve recipients;
- limited access to all benefits, including awaiting returns, re-establishment grants, education and training provisions;
- for status Indians, administration by the iab and no direct access to the DVA; and
- for status Indians, apparent pressure to enfranchise.

The VLA emerged as the single most important benefit offered Second World War veterans. Ownership of land and access to loans were key means of providing a secure economic base for many young veterans returning from the war. Although the VLA was extended several times, in 1968, 1975 and 1977, and directions were given for publicity, testimony suggests that many Aboriginal veterans were still seeking to benefit from an opportunity that eluded them.[151] These veterans raised questions about the different benefits available through the standard VLA and the regime that applied to Indians. They clearly consider the differences between the two unjustifiable.

Many veterans who spoke to the Commission mentioned brothers or friends who had been enfranchised, some of them involuntarily while they were away at war. Ray Prince, originally of Fort St. James, testified that he was removed from his reserve after he had served five and a half years overseas.[152] Herman Saulis, who represented NAVA, referred with anger to this difficulty of obtaining veterans benefits: "There was one very simple solution to this madness, move off the reserve and lose your Indian status. ...Why should we as veterans be subjected to conditions when the non-Native did not have to comply

with anything?"[153] Moving off-reserve was a risky proposition, since, as we saw, such people would not be considered good credit risks. Besides, those who did move often failed to obtain the standard VLA benefit.

Métis and non-status Indians also reported that they were at a disadvantage with respect to VLA provisions. They should have been served by DVA directly, but many had no contact, no information, and no help from that office. Language, distance and communication barriers effectively prevented the flow of information and the process of applying for benefits. Vital Morin, of Île-à-la-Crosse, Saskatchewan, explained to the Commission that the only form of communication in northern Saskatchewan after the war was the telegraph.[154] There was no Legion, no veterans affairs office, and no other form of access. Many veterans received only the war service gratuity and the standard clothing allowance; some did not even receive this minimal benefit.[155] They did not know what other benefits existed or how to obtain them.

Some Métis who were able to settle on Crown land obtained only the $2,320 grant – the same amount provided for status Indians on reserves. This was the policy of the VLA in cases where land could not be used as collateral – even though this was not made clear to all veterans. Some Métis veterans seem to have experienced outright discrimination. Veteran Sam Sinclair tried to obtain a 39-acre plot of land after the war, but was refused permission on the grounds that the land was in a flood plain. Yet he subsequently saw title for that land pass repeatedly to other purchasers.[156] Even today, many elderly veterans live in poverty, never having received veterans benefits despite their war service. "They have nothing and they're too proud to ask."[157]

The list of possible benefits was long and complicated.[158] Benefits had to be applied for; they were not automatic. This precondition required reliable sources of information, which clearly did not exist, since the IAB and its agents typically failed to perform this role. As one veteran said, "They told us what they were going to give us, not what we were qualified to get."[159] These veterans also maintain that fraud occurred in the delivery of benefits, because too much was left to the discretion of Indian agents, and record keeping was inadequate.[160]

Status Indians reported that they had been barred from joining their local Royal Canadian Legion.[161] The *Indian Act* did bar them from drinking establishments, despite some variations in the policies of individual Legions. As we saw, this exclusion kept many status Indian veterans from receiving DVA information that was distributed regularly through Legions across Canada, as well as depriving them of valuable opportunities to compare notes on benefits with fellow veterans.

Disability pensions have also proven to be a problem for many veterans. Some did not know that they were available until long after the war, when they were finally able to join the Legion. Learning about the existence of benefits years

after the war was often too late, and veterans without early medical records to prove their cases were likely to be denied benefits.[162]

Some veterans have acted as volunteer advocates for others who cannot speak for themselves: age, language barriers, shyness and pride can stand in the way of many potential applicants for veterans benefits. Sidney de More, a non-status Indian veteran, insists that widows of veterans often did not get proper assistance; Gordon Ahenakew, an Indian veteran of the Second World War, and Claude Petit, a Métis veteran of Korea, are typical of men who continue to seek justice for others. Many other recent retirees from the forces and leaders in friendship centres and other community organizations devote their time and energy to solving problems for older veterans. These efforts attest to the sense of grievance and need in Aboriginal communities.

The veteran affairs department is now trying to inform surviving veterans about current benefits, although most post-war benefits have been discontinued. The approach of the DVA is based on veterans contacting the department: "if you know anyone make sure that they get in touch with us."[163] New programs such as off-reserve housing assistance and the Veterans Independence Program are welcome innovations, but they cannot replace the key benefits of the immediate post-war era. Nor do they provide the recognition that veterans speak about so often. Aboriginal veterans have been adamant: they do not want welfare; as Canadian war veterans they want equal benefits.

6. Epilogue

Aboriginal veterans of the Second World War are elderly now; those who survive are patient yet persistent. Although they have been distressed by the inequities in benefits for Aboriginal veterans, they are also hopeful that this time their story will be heard and their contributions and sacrifices honoured. These veterans have greater support in the 1990s than ever before, despite the decline in their numbers. Veterans and many of their support groups participated in the hearings of the Royal Commission on Aboriginal Peoples and the Senate's Standing Committee on Aboriginal Peoples. Their associations continue to press for redress for individuals and recognition for all Aboriginal veterans.

The National Aboriginal Veterans Association presented a brief to this Commission in October 1993, entitled "Aboriginal Veterans: Service and Alliance Re-examined", urging the creation of a new position within DVA to spearhead research on Aboriginal veterans' grievances, in co-operation with the department of Indian affairs and NAVA. NAVA also requested government funding to enable it to pursue projects in conjunction with these two government departments.[164] The Commission heard testimony from NAVA representatives in most regional hearings, and these confirmed that there is widespread support for the national organization.

The Aboriginal veterans who remain continue to participate in national Remembrance Day services organized by the Royal Canadian Legion, but they are hindered by the high cost of travel from distant parts of Canada. Only a handful of veterans are left in many Aboriginal communities to participate in local services; for example, of more than 30 veterans who served from Curve Lake First Nation in Ontario, only six were able to parade to the war memorial in 1992.[165]

Veterans want their contributions valued and remembered. When asked how this should be accomplished, they spoke of establishing memorials in their communities that would tell their story to future generations. But they also wanted their sacrifice to make a difference to their children and grandchildren now. Sam Sinclair and Claude Petit, president and vice-president of NAVA, asked that programs in memory of veterans aim to encourage Aboriginal youth to remain in school to complete their acquisition of skills and knowledge.[166] Like other veterans, they asked that their actions and those of their home communities in support of the war effort be part of the accounts of this period in history books used by all Canadian students.

While the surviving veterans wait for real change, the Chippewas of Kettle and Stony Point continue to seek the return of their lands, appropriated by order in council P.C. 2913 under the *War Measures Act* in April 1942.[167]

This issue is closely connected to the wider one of the government's failure to serve Aboriginal veterans' best interests. The ancestors of the Chippewas were allies of the British during the War of Independence and the War of 1812, and many served in this century's two world wars. Like many other bands, the Chippewas saw land pried away from their control despite treaty guarantees. Many other bands were pressured into long-term leases or outright sale, but the residents of Kettle and Stony Point had to submit to appropriation, and the provisions to negotiate for a return of their land – which was presumably needed for "efficient prosecution of the war" – were not acted upon after the war.[168] The government invested great energy in acquiring such land, but it ignored or minimized its obligations after the war. Perhaps the government never understood the profound importance of land to Canada's Aboriginal people and what recognition of their service would have meant to them.

Aboriginal veterans appeared in 1994 and 1995 before the Senate's Standing Committee on Aboriginal Peoples. The committee heard first-hand about many of the injustices discussed in this chapter, and in March 1995 the committee's report made several recommendations that broadly resemble those presented here. They included a recommendation that the government of Canada recognize the special contribution of Aboriginal veterans and that it apologize to Aboriginal veterans for past inequities. Our recommendations differ in some respects from those of the Senate committee, but we agree broadly on the overall need for urgent recognition and redress.

Recommendations

To maintain an honourable bond with the veterans who have served their country well, it is essential that the government of Canada undertake immediate remedial measures.

The Commission recommends that the Government of Canada

Acknowledge Contribution

1.12.1

Acknowledge, on behalf of the people of Canada, the contribution of Aboriginal people within the Canadian Armed Forces during the wars of this century (the First World War, the Second World War and Korea) by

(a) giving a higher profile to Aboriginal veterans at national Remembrance Day services;

(b) funding the erection of war memorials in Aboriginal communities; and

(c) funding the continuing work of Aboriginal veterans' organizations.

Appoint Ombudsman

1.12.2

Agree to Aboriginal veterans' requests for an ombudsman to work with the departments of veterans affairs and Indian affairs and northern development and national and provincial veterans' organizations to resolve long-standing disputes concerning

- Aboriginal veterans' access to and just receipt of veterans benefits; and
- the legality and fairness of the sales, leases and appropriations of Indian lands for purposes related to the war effort and for distribution to returning veterans of the two world wars.

Aboriginal Personnel

1.12.3

Hire Aboriginal people with appropriate language skills and cultural understanding in the department of veterans affairs to serve distinct Aboriginal client groups.

Foundation

1.12.4

Establish and fund a non-profit foundation in honour of Aboriginal veterans to promote and facilitate education and research in Aboriginal history and implement stay-in-school initiatives for Aboriginal students.

Notes

1. Much of the focus of this chapter is on First Nations and Métis people. Although a number of Inuit, particularly from Labrador, served with distinction in the wars Canada has fought this century, their greater geographic isolation during this period shielded most from involvement.
2. *The Aboriginal Soldier After the Wars*, Report of the Standing Senate Committee on Aboriginal Peoples (Ottawa: Senate of Canada, March 1995).
3. George F.G. Stanley, *Canada's Soldiers: The Military History of an Unmilitary People* (Toronto: The Macmillan Company of Canada Limited, 1960), pp. 114, 124, 127.
4. Stanley, *Canada's Soldiers*, p. 155.
5. George F.G. Stanley, "The Indians in the War of 1812", in *The Defended Border: Upper Canada and the War of 1812*, ed. Morris Zaslow (Toronto: The MacMillan Company of Canada Limited, 1964), p. 178.
6. Stanley, "The Indians in the War of 1812", p. 179.
7. Stanley, "The Indians in the War of 1812", p. 184.
8. Stanley, "The Indians in the War of 1812", pp. 187-188.
9. Daniel Moses and Terry Goldie, ed., *An Anthology of Canadian Native Literature in English* (Toronto: Oxford University Press, 1992), p. 37.
10. Janice Summerby, *Native Soldiers, Foreign Battlefields* (Ottawa: Veterans Affairs, 1993), p. 14.
11. Penny Petrone, *First People, First Voices* (Toronto: University of Toronto Press, 1983), pp. 148, 151.
12. National Archives of Canada, Record Group 10, Indian Affairs [hereafter NAC RG10], volume 6771, file 452-29.
13. Duncan C. Scott, *Canadian Indians in the Great War*, volume 3 of *Canada in the Great War* (Toronto: United Publishers of Canada, 1919), p. 297.
14. NAC RG10, volume 6771, file 452-29.
15. NAC RG20, volume 1221, file HQ 593-1-7.
16. Fred Gaffen, *Forgotten Soldiers* (Penticton, B.C.: Theytus Books Ltd., 1985), p. 23.
17. Alastair Sweeny, "Government Policy and Saskatchewan Indian Veterans: A Brief History of the Canadian Government's Treatment of Indian Veterans of the Two World Wars", report prepared for the Saskatchewan Indian Veterans' Association (Ottawa: Tyler, Wright and Daniel Ltd., 1979), p. 4.
18. NAC RG10, volume 6768, file 452-20, part 1.
19. P.C. 111, 17 January 1918, NAC RG10, volume 6768, file 452-20, part 1.
20. NAC RG10, volume 6768, file 452-20, part 1, part 3.

21. Department of Indian Affairs, Annual Report (1919).
22. Gaffen, *Forgotten Soldiers* (cited in note 16), pp. 27, 112; Summerby, *Native Soldiers* (cited in note 10), pp. 25, 16, 11.
23. Summerby, *Native Soldiers*, p. 9 and following.
24. Gaffen, *Forgotten Soldiers* (cited in note 16), p. 25.
25. Gaffen, *Forgotten Soldiers*, p. 2.
26. Sweeny, "Government Policy" (cited in note 17), p. 23.
27. Sweeny, "Government Policy", pp. 14-15.
28. *An Act to Amend the Indian Act*, S.C. 1911, chapter 14 (1-2 George V).
29. P.C. 929; see Sweeny, "Government Policy", p. 15.
30. Jean Goodwill and Norma Sluman, *John Tootoosis* (Winnipeg: Pemmican Publications, 1984), pp. 116-117.
31. Sweeny, "Government Policy" (cited in note 17), p. 22.
32. Gaffen, *Forgotten Soldiers* (cited in note 16), p. 135.
33. Sweeny, "Government Policy" (cited in note 17), p. 22.
34. Sweeny, "Government Policy", p. 24, quoting *Indian Act*, R.S.C. 1906 (3 Edward VII), chapter 81, section 164.
35. Sweeny, "Government Policy", p. 23.
36. Gaffen, *Forgotten Soldiers* (cited in note 16), p. 36.
37. James Dempsey, "Problems of Western Canadian Indian War Veterans after World War One", *Native Studies Review* 5/2 (1989), p. 8.
38. Sweeny, "Government Policy" (cited in note 17), pp. 30-34.
39. Sweeny, "Government Policy", p. 36.
40. Gaffen, *Forgotten Soldiers* (cited in note 16), p. 37.
41. Dempsey, "Problems" (cited in note 37), p. 1.
42. Peter Kulchyski, "A Considerable Unrest: F.O. Loft and the League of Indians", *Native Studies Review* 4/1-2 (1988), p. 107.
43. Kulchyski, "A Considerable Unrest", p. 101.
44. Kulchyski, "A Considerable Unrest", pp. 106, 107.
45. Dempsey, "Problems" (cited in note 37), p. 2.
46. Kulchyski, "A Considerable Unrest" (cited in note 42), p. 113.
47. Indian Affairs Branch, Annual Report (1940), p. 1.
48. NAC RG10, volume 6764, file 452-6, part 2.
49. NAC RG10, volume 6763, file 452-5, part 5.

50. NAC RG10, volume 6764, file 452-6, part 2.
51. NAC RG10, volume 6763, file 452-5, part 5.
52. NAC RG10, volume 6764, file 452-6X, part 2.
53. NAC RG10, volume 6763, file 452, part 2.
54. Paul Bilodeau, "Indian Veterans' Benefits to be Surveyed", *The Edmonton Journal*, 29 June 1983.
55. See *A Note About Sources* at the beginning of this volume for information about transcripts of the Commission's hearings. See also Senate Committee on Aboriginal Peoples, *The Aboriginal Soldier After the Wars* (cited in note 2).
56. J.L. Granatstein and Desmond Morton, *A Nation Forged in Fire: Canadians and the Second World War 1939-1945* (Toronto: Lester and Orpen Dennys Limited, 1989), p. 15.
57. Indian Affairs Branch, Annual Report (1940), pp. 1, 2.
58. NAC RG10, volume 6764, file 452-6X, part 2.
59. NAC RG10, volume 6763, file 452-5, part 2.
60. NAC RG10, volume 6765, file 452-6X, parts 2 and 3.
61. NAC RG10, volume 6764, file 452-6, part 2.
62. Mackenzie Porter, "Warrior: Tommy Prince", *Maclean's* 65/17 (September 1952).
63. NAC RG10, volume 6764, file 452-6, part 2.
64. NAC RG10, volume 6764, file 452-6, part 2.
65. Gaffen, *Forgotten Soldiers* (cited in note 16), p. 64.
66. NAC RG10, volume 6764, file 452-6X, part 1.
67. Gordon Ahenakew, quoted in "Indian veterans relive experiences: Initial war experience like a bad dream", [Saskatoon] *Star-Phoenix*, 7 May 1988, p. D1.
68. Ernie Crowe, quoted in "Indian veterans relive experiences".
69. Sweeny, "Government Policy" (cited in note 17), p. 50.
70. Granatstein and Morton, *A Nation Forged in Fire* (cited in note 56), p. 29.
71. E.L.M. Burns, *Manpower in the Canadian Army 1939-1945* (Toronto: Clarke, Irwin & Co. Limited, 1956), p. 118 and following.
72. Granatstein and Morton, *A Nation Forged in Fire* (cited in note 56), p. 231.
73. NAC RG10, volume 6765, file 452-6X, part 3.
74. Gaffen, *Forgotten Soldiers* (cited in note 16), p. 67.
75. NAC RG10, volume 6768, file 452-20, part 4.
76. NAC RG10, volume 6768, file 452-20, part 4.

77. Alexander Morris, *The Treaties of Canada with the Indians of Manitoba and the North-West Territories* (Toronto: Belfords, Clarke & Co., 1880; reprinted Coles Publishing Company, 1971), pp. 69, 218, 234.
78. NAC RG10, volume 6769, file 452-20, part 6.
79. Goodwill and Sluman, *John Tootoosis* (cited in note 30), p. 176.
80. NAC RG10, volume 6763, file 452-5, part 2.
81. NAC RG10, volume 6764, file 452-6, part 2.
82. NAC RG10, volume 6764, file 452-6X, part 1.
83. NAC RG10, volume 6764, file 452-6X, part 2.
84. NAC RG10, volume 6763, file 452, part 2.
85. NAC RG10, volume 6763, file 452-5, part 2.
86. NAC RG10, volume 6764, file 452-6.
87. Indian Affairs Branch, Annual Report (1944), p. 152.
88. NAC RG10, volume 6763, file 452-5, part 2.
89. Summerby, *Native Soldiers* (cited in note 10), p. 20.
90. Gaffen, *Forgotten Soldiers* (cited in note 16), pp. 69-70.
91. Gaffen, *Forgotten Soldiers*, p. 41.
92. John Ellis, *The Sharp End of War: The Fighting Man in World War II* (London: David & Charles (Publishers) Limited, 1980), p. 281.
93. *Windspeaker* AMMSA [Aboriginal Multi-Media Society of Alberta], 21 July 1989, p. 14.
94. *Windspeaker* AMMSA, 21 July 1989, p. 14.
95. *The* [Regina] *Leader Post*, 8 October 1988.
96. Quoted in Rudy Platiel, "Natives perform special ceremonies to honor war dead", *The Globe and Mail*, 12 November 1987, p. A8.
97. Don Collins, "We were regular Canadians in the war but second-class after, Natives say", *The London Free Press*, 12 November 1987, p. A1.
98. NAC RG10, volume 6764, file 452-6.
99. Porter, "Warrior: Tommy Prince" (cited in note 62), pp. 11, 50.
100. Gaffen, *Forgotten Soldiers* (cited in note 16), p. 115 and following.
101. Gaffen, *Forgotten Soldiers*, pp. 41, 116, 123, 124, 139.
102. Gaffen, *Forgotten Soldiers*, pp. 56, 57.
103. Porter, "Warrior: Tommy Prince" (cited in note 62), p. 11, 53.
104. NAC RG10, volume 6772, file 452-40.
105. Gaffen, *Forgotten Soldiers* (cited in note 16), pp. 71, 135.

106. NAC RG10, volume 6772, file 452-42.

107. NAC RG10, volume 6774, file 452-6.

108. NAC RG10, volume 6772, file 452-42.

109. NAC RG10, volume 6772, file 452-42.

110. NAC RG10, volume 6764, file 452-6X, part 1.

111. NAC RG10, volume 6772, file 452-42.

112. NAC RG10, volume 6765, file 452-6, part 56.

113. NAC RG10, volume 6772, file 452-42.

114. NAC RG10, volume 6772, file 452-42.

115. NAC RG10, volume 6772, file 452-42.

116. NAC RG10, volume 6772, file 452-42.

117. NAC RG10, volume 6772, file 452-40.

118. NAC RG10, volume 7585, file 25001-1, part 5.

119. *An Act to assist War Veterans to Settle upon the Land*, S.C. 1942-43, chapter 33 (6 George VI), preamble.

120. House of Commons, Debates, 11 December 1945, p. 3304 and following.

121. Order in council P.C. 2122, 13 April 1945. This was confirmed by P.C. 5932 of 7 September 1945.

122. *An Act to amend The Veterans' Land Act, 1942,* S.C. 1945 (9-10 George VI), chapter 34, section 7, adding a new section 35A to the original act.

123. P.C. 5932, 7 September 1945.

124. Sweeny, "Government Policy" (cited in note 17), p. 57.

125. Sweeny, "Government Policy", p. 56.

126. Indian affairs branch file 1/39/6, volume 1 (found in the files of the National Indian Veterans Association, now held by the Assembly of First Nations [hereafter NIVA files]).

127. Sweeny, "Government Policy" (cited in note 17), p. 57.

128. Indian affairs branch file 1/39-6-2, volume 1 [NIVA files].

129. Gaffen, *Forgotten Soldiers* (cited in note 16), p. 86.

130. Indian affairs branch file 80 CV [NIVA files].

131. Indian affairs branch file 9146 #343 311 – 3VLA [NIVA files].

132. Claude Petit, transcripts of the hearings of the Royal Commission on Aboriginal Peoples [hereafter RCAP transcripts], Saskatoon, Saskatchewan, 27 October 1992. For information about RCAP transcripts, see *A Note About Sources* at the beginning of this volume.

133. Richard Poitras, testimony, Standing Senate Committee on Aboriginal Peoples, Edmonton, 15 November 1994, pp. 15:47, 15:51.

134. Kenneth Harris, RCAP transcripts, Vancouver, 14 November 1994.

135. Indian Affairs Branch, annual reports for the years 1942-1949.

136. 'Awaiting returns' refers to financial support provided to a fledgling business in the period before revenues from the business become stabilized.

137. John Milloy, "A Partnership of Races Indian and White: Cross Cultural Relations and Criminal Justice in Manitoba 1670-1949" (Winnipeg: Aboriginal Justice Inquiry of Manitoba, 1990), p. 85.

138. Edward Bellrose, testimony, Standing Senate Committee on Aboriginal Peoples, Edmonton, 15 November 1994, p. 15:7.

139. Milloy, "A Partnership of Races" (cited in note 137), p. 84.

140. Milloy, "A Partnership of Races", p. 84.

141. Special Joint Committee of the Senate and the House of Commons on the Indian Act, *Minutes of Proceedings and Evidence*, 8 May 1947, p. 985.

142. Special Joint Committee, *Proceedings*, 8 May 1947, p. 996.

143. Special Joint Committee, *Proceedings*, 2 May 1947, pp. 821-822.

144. Special Joint Committee, *Proceedings*, 22 May 1947, p. 1317.

145. Appropriated by order in council P.C. 2913, issued under the authority of the *War Measures Act*, April 1942.

146. Special Joint Committee, *Proceedings*, 26 June 1947, p. 1969.

147. NIVA files, Assembly of First Nations, Ottawa.

148. Indian affairs branch, memorandum from Ostrander, superintendent of welfare, to all Indian agents, 23 September 1955 [NIVA files].

149. Testimony included Reuben Wasacase, Ne-Chee Friendship Centre, RCAP transcripts, Kenora, Ontario, 28 October 1992; Native Women's Association of Canada, RCAP transcripts, Ottawa, 4 November 1993; Vital Morin, Senate Committee on Aboriginal Peoples, *Proceedings*, Saskatoon, 16 November 1994, p. 16:31.

150. Herman Saulis, RCAP transcripts, Moncton, New Brunswick, 15 June 1993.

151. Department of Citizenship and Immigration, Indian affairs branch, H.M. Jones to Indian commissioner of B.C. and others, circular no. 364, 18 April 1962, file 1/39-6; Alberta Indian War Veterans Society, Intervener Participation Program brief to RCAP, 25 October 1993; Association of Métis Veterans of Saskatchewan, conference, Saskatoon, 27 July 1993.

152. Ray Prince, RCAP transcripts, Prince George, British Columbia, 31 May 1993.

153. Herman Saulis, RCAP transcripts, Moncton, 15 June 1993.

154. Vital Morin, RCAP transcripts, Winnipeg, 21 April 1992.

155. Claude Petit, RCAP transcripts, Saskatoon, 27 October 1992.

156. Sam Sinclair, RCAP transcripts, Slave Lake, Alberta, 27 October 1992.

157. Senator Thelma Chalifoux, Metis Nation of Alberta Association, RCAP transcripts, Winnipeg, Manitoba, 21 April 1992.

158. These benefits included a clothing allowance, obtainable on discharge; a rehabilitation grant, on discharge; the war service gratuity, to be applied for at the time of discharge; vocational and technical training, to be applied for within 12 months of discharge or at the end of hostilities; a university education, to be applied for within 15 months; the *Veterans' Land Act*; a re-establishment credit – if neither education nor VLA had been applied for, the credit was equal to the basic gratuity to be applied for; awaiting returns, a living allowance for veterans not yet receiving income from farm or businesses, to be applied for within 12 months; unemployment insurance; veterans insurance, a government life insurance policy of up to $10,000, to be applied for; the health benefits allowance, if incapacitated, to be applied for; out of work benefits, allowance for up to 12 months, to be applied for. (Department of Mines and Resources, Indian affairs branch, "Re-establishment of Veterans, War 1939-45", 1 February 1946 [NIVA files].)

159. Gilbert McLeod, testimony, Senate Committee on Aboriginal Peoples, *Proceedings* 16:25, Saskatoon, 16 November 1994.

160. Gordon Ahenakew, RCAP transcripts, Saskatoon, 27 October 1992.

161. Herman Saulis, RCAP transcripts, Moncton, 15 June 1993; Norman Quinney and Joe Houle, RCAP transcripts, Edmonton, 11 June 1992; and Steve Mistaken Chief, testimony, Senate Committee on Aboriginal Peoples, *Proceedings* 15:37-38, 15 November 1994.

162. Joe Seymour, Ne-Chee Friendship Centre, RCAP transcripts, Kenora, Ontario, 28 October 1992.

163. Mike Lyle, Department of Veterans Affairs, RCAP transcripts, Orillia, Ontario, 12 May 1993.

164. National Aboriginal Veterans Association (NAVA), "Aboriginal Veterans: Service and Alliance Re-examined", submission to RCAP, p. 23.

165. Ron Ozawa, CBC television news, Remembrance Day coverage, 11 November 1992.

166. An encouraging step in this direction was the 11 November 1995 announcement by the minister of Indian affairs of the establishment of an Aboriginal Veterans Memorial Scholarship Fund.

167. Although the federal government finally agreed in 1995 to return the appropriated lands, there have been further delays in part because of the need to remove munitions from the site.

168. Chippewas of Kettle and Stony Point, press release, 28 April 1995 (Forest, Ontario), p. 2.

13

Conclusions

> I want to get rid of the Indian problem. I do not think as a matter of fact, that the country ought to continuously protect a class of people who are able to stand alone...
>
> Our objective is to continue until there is not a single Indian in Canada that has not been absorbed into the body politic and there is no Indian question, and no Indian Department, that is the whole object of this Bill.[1]

Rarely have the prevailing assumptions underlying Canadian policy with regard to Aboriginal peoples been stated so graphically and so brutally. These words were spoken in 1920 by Duncan Campbell Scott, deputy superintendent general of Indian affairs, before a special parliamentary committee established to examine his proposals for amending the enfranchisement provisions of the *Indian Act*.

This statement, redolent of ethnocentric triumphalism, was rooted in nineteenth-century Canadian assumptions about the lesser place of Aboriginal peoples in Canada. Far from provoking fervent and principled opposition to the assimilationist foundation of his testimony, Scott's statements were generally accepted as the conventional wisdom in Aboriginal matters. Any dispute was over the details of his compulsory enfranchisement proposals, not over the moral legitimacy of assimilation as the principle guiding relations between the federal government and Aboriginal peoples.

That a Canadian official could speak such words before the representatives of the Canadian people in the twentieth century without arousing profound and vehement objections is equally noteworthy. It was taken for granted that Aboriginal peoples were simply a minority group of 'inferior' peoples, internal 'immigrants', in effect, in a country ready to accept them on equal terms only

if they renounced their Aboriginal identity and demonstrated in terms acceptable to non-Aboriginal society that they were fit for the 'privileges' of enfranchisement and fuller participation in the more evolved, more 'civilized' society that had overtaken and grown up around them.[2] In other words, the false premises that underlay so much of government policy toward Aboriginal peoples were alive and well in the third decade of this century.

Impassioned opposition to Scott's proposal, from Indian interveners appearing before the special committee, was ignored, and the amendment allowing enfranchisement of Indians without their consent was passed with minor procedural modifications. Despite continuing Indian hostility to its destructive intent, it was given royal assent and became law on 1 July 1920.

Thus, on the day commemorating Canada's own emergence as a distinct political entity in the broader world community, Canada adopted a law whose avowed goal was the piecemeal but complete destruction of distinct social and political entities within the broader Canadian community. This relatively minor episode perhaps best encapsulates the core injustice that had been building for close to 100 years. That was the continuous and deliberate subversion of Aboriginal nations – groups whose only offence was their wish to continue living in their own communities and evolving in accordance with their own traditions, laws and aspirations.

In the first part of this volume, we traced the evolution of the relationship between Aboriginal peoples and the new arrivals from Europe, following it through four distinct but overlapping periods and trying to capture the experience and perspectives of Aboriginal peoples. We showed how, during the period we call displacement and assimilation, new philosophies that trumpeted the superiority of 'civilized' Europeans over 'uncivilized', even 'savage', Aboriginal peoples, swept the British Empire. The policies resulting from these ethnocentric philosophies – represented for the First Nations by enfranchisement and similar measures and for the Métis people by individual land allotments and subsequent land losses in the west – undermined the tripartite relationship between Aboriginal peoples, the colonies and the imperial Crown, and paved the way for the attempted destruction of Aboriginal societies.

Having come upon diverse societies possessing their own long-established laws and customs, the newcomers from Europe were forced to justify their failure to continue to accord Aboriginal nations the respect that initially guided relations between them. Former commercial and military allies, original full-fledged partners in a joint enterprise, Aboriginal peoples came to be seen by increasingly ethnocentric and intolerant colonial and Canadian authorities in an entirely different and contemptuous light.

It was a light, moreover, that seemed deliberately to leave in the shadows Aboriginal peoples' actual status as nations and as peoples and their legitimate demands to participate as constitutional equals to the colonies that eventually

federated to become Canada. Only now have the shadows cast by the false assumptions of decades of Canadian Aboriginal policy begun to lift, to reveal the true contours of the Canadian federation.

The unflattering and misleading image of Aboriginal people promoted by the new generation of Canadian nation builders is nowhere better captured than in the annual report of the department of the interior for 1876, the year the first *Indian Act* was adopted. That image recast Aboriginal people in the role of wards or children of the state, requiring of federal officials that "every effort should be made to aid the Red man in lifting himself out of his condition of tutelage and dependence" because "that is clearly our wisdom and our duty, through education and other means, to prepare him for a higher civilization...".[3]

Our focus in this second part of this volume has been on what transpired when the initial consensus supporting the alliance between Aboriginal nations and settler governments died, and the balance of power shifted decisively in favour of colonial and Canadian authorities. With the political and economic ascendency of the new Canadian state confirmed, there was no effective challenge to the validity of the false premises generated by the ethnocentric certainties of the nineteenth century.

These premises provided sufficient moral and philosophical foundation to justify the broad consensus, across all sectors of Canadian society, that put the actions examined in the last four chapters beyond challenge. This gave government the licence to treat a category of people in a way that would never have been tolerated, even in the more constrained political environment of the day, if it had been practised against the Canadian population as a whole. Such an orientation, it is clear to us today, was profoundly racist.

The legacy is still with us. The *Indian Act*, the centrepiece of federal legislation, continues to interfere profoundly in the lives, cultures and communities of First Nations peoples today. We believe there can be no real change within the confines of this act. We discuss more fully in Volume 2 what should replace it. We acknowledge the profound mistrust that causes many communities to hold onto the *Indian Act* in the absence of any process assuring them that their historical rights will be respected. We believe that recognition by the Canadian people of the profound injustices visited on Aboriginal peoples over the decades by this legislation will lead to a demand that governments commence a process that will lead to a new legal basis for the relationship.

No segment of our research aroused more outrage and shame than the story of the residential schools. Certainly there were hundreds of children who survived and scores who benefitted from the education they received. And there were teachers and administrators who gave years of their lives to what they believed was a noble experiment. But the incredible damage – loss of life, denigration of culture, destruction of self-respect and self-esteem, rupture of families, impact of these traumas on succeeding generations, and the enormity of the cultural

triumphalism that lay behind the enterprise – will deeply disturb anyone who allows this story to seep into their consciousness and recognizes that these policies and deeds were perpetrated by Canadians no better or worse intentioned, no better or worse educated than we are today. This episode reveals what has been demonstrated repeatedly in the subsequent events of this century: the capacity of powerful but grievously false premises to take over public institutions and render them powerless to mount effective resistance. It is also evidence of the capacity of democratic populations to tolerate moral enormities in their midst.

These were also acts of profound cruelty to individuals: children (now adults) and their families and communities. A public inquiry is urgently required to examine the origins, purposes and effects of residential school policies, to identify abuses, to recommend remedial measures and to begin the process of healing.

The history of relocations compounds the malaise and explains poignantly the social dysfunction that has become widespread in many Aboriginal communities. Again we see the impunity with which public institutions can act when buttressed by erroneous premises. As shown in Chapter 11, Aboriginal people were moved because they were moveable. The intentions of those who made the policies and those who implemented them may have been just in their own eyes, but Aboriginal peoples could be treated in this way only because different standards applied to them than to other Canadians. Decisions could be made for them – token consultation was all that was required. To do anything else would jeopardize the desired outcome. And these moves were undertaken, it is now apparent, with no understanding of their profound and debilitating impact on almost all aspects of the relocatees' lives.

As with the residential schools policy, profound damage was done to the human rights of Aboriginal Canadians in the course of many relocations. It is true that our sensitivity to and understanding of human rights has progressed significantly in recent decades. But many of these relocations occurred well after Canada's endorsement of the Universal Declaration of Human Rights in 1948. We believe that the right approach to accountability and compensation is a process of inquiry through the Canadian Human Rights Commission to assess each case on its own merits and judge, among other things, whether the accepted standards of the day were applied in the design and implementation of the relocation. Coupled with this process for redress, governments should adopt relocation guidelines that explicitly incorporate the highest standards of human rights.

The final chapter in this sad era of dispossession is equally poignant. Despite all that had gone before, Aboriginal men and women volunteered in remarkable numbers to serve in the armed forces in both world wars. Motivated in some cases by ancient traditions, a continuing sense of obligation to act

when an ally is threatened, or the opportunity to earn a living, they found in wartime service acceptance and equality. They served with great distinction. But when they returned to private life, they again faced discrimination and deprivation. Many were denied access to assistance equivalent to that received by their comrades unless they abandoned their home communities. Valued by their comrades on the battlefield and hailed at home for their contributions to defence industries and wartime charities, when the peace was won, Aboriginal people were again relegated to the margins of society, with the apparent acquiescence of Canadians.

We believe that Canadians and their governments must recognize and honour these men and women for their extraordinary acts of patriotism on behalf of a country in which they were not yet, for the most part, full citizens. Canadians owe them a particular debt of gratitude and special recognition of their participation in the struggle for freedoms that they themselves were denied when they returned.

All who read these accounts will be disturbed. Many exposed to these events for the first time will urge us to forget the past: building for the future is what counts, they argue; preoccupation with past injustices and compensation can only continue to embroil the relationship in blame and confrontation.

But as Aboriginal people have told us, the past might be forgiven but it cannot be forgotten. It infuses the present and gives shape to Canadian institutions, attitudes and practices that seriously impede their aspirations to assume their rightful place in a renewed Canadian federation. Only if Canada admits to the fundamental contradiction of continuing colonialism, they assert, can true healing and true reconciliation take place.

The social, economic and political weaknesses of most modern Aboriginal communities stem from the failure of imperial, colonial and Canadian authorities to respond to Aboriginal peoples' request for the opportunity to evolve in harmony with the growth of the non-Aboriginal society emerging around them. Having wilfully abandoned and marginalized Aboriginal peoples, and deliberately undermined their social and political cohesiveness, non-Aboriginal governments cannot now plead the passage of time and the institutional weaknesses of present-day Aboriginal nations as an excuse for inaction.

As we move through the current period of our shared journey together – the stage of negotiation and renewal – we urge governments and the Canadian people to undertake a comprehensive and unflinching assessment of the unstable foundations of the relationship that developed during the period of displacement and assimilation. We can no longer afford merely to 'manage' the continuing crisis in the relationship by mediating potential areas of conflict while leaving unaltered the foundation on which that conflict inevitably arises.

Notes

1. Duncan Campbell Scott, deputy superintendent general of Indian affairs, testimony before the Special Committee of the House of Commons examining the Indian Act amendments of 1920, National Archives of Canada, Record Group 10, volume 6810, file 470-2-3, volume 7, pp. 55 (L-3) and 63 (N-3). See John Leslie, *The Historical Development of the Indian Act*, second edition (Ottawa: Department of Indian Affairs and Northern Development, Treaties and Historical Research Branch, 1978), p. 114.

2. Enfranchisement was referred to explicitly in the *Indian Act* as a privilege. See, for example, the *Indian Act*, R.S.C. 1906, chapter 81, section 108, regarding Indians of "sufficient intelligence to be qualified to hold land in fee simple, and otherwise to exercise all the rights and privileges of an enfranchised person."

3. Department of the Interior [Indian Affairs Branch], *Annual Report* (Ottawa: 1876), p. XIV. See Wayne Daugherty and Dennis Madill, *Indian Government under Indian Act Legislation, 1868-1951* (Ottawa: Department of Indian Affairs and Northern Development, Research Branch, 1980), p. 3.

PART THREE

Building the Foundation of a Renewed Relationship

14

The Turning Point

Our work as commissioners led us to a deeper understanding of the history of Canada and the challenges we face as a country. Much of the research and testimony presented by Aboriginal and non-Aboriginal people alike points to a fundamental contradiction at the heart of this country.

In the minds of people across the globe, Canada has come to represent the highest ideals of freedom and respect for human rights. But the unfortunate reality is that Canada also embodies less noble values far more characteristic of another, less tolerant age.

Our country has become a model for the world in many ways, yet the fundamental contradiction of building a modern liberal democracy upon the subversion of Aboriginal nations and at the expense of the cultural identity of Indigenous peoples continues to undermine our society. As a Commission, we see this contradiction manifest itself in harmful ways in Aboriginal communities, and we recognize the basic threat it poses to the legitimacy of Canadian institutions. We believe the time has come to move out of an age of disrespect and intolerance, and into a new era of reconciliation with Aboriginal nations.

We have also come to realize that Canadian history as told in our history books and schoolroom texts gives a privileged place to certain perspectives on events. The result is a skewed depiction of the history of the Aboriginal peoples who have inhabited this land from time immemorial. Creating an accurate understanding of the past is the best way to address the residual effects of this distortion, and part of our work as a Commission has been to attempt to understand and communicate both Aboriginal and non-Aboriginal perspectives on that history.

As with the telling of history, so too with shaping the governmental structures and institutions that control Aboriginal people's lives. The culture and values of the mainstream are recognized in the institutions of Canadian society,

but indigenous cultures and values are not. In this way, the colonization of Aboriginal nations has become an institutionalized reality.

But Aboriginal nations themselves are also a persistent reality. Aboriginal nations deny that they ever surrendered their sovereignty. In many cases, they regard the institutions of Canada as representing a sovereignty relevant only to non-Aboriginal people, co-existing with the inherent sovereignty of Canada's First Peoples.

With considerable historical justification, they argue that Aboriginal voices have been excluded from the Canadian narrative, that non-Aboriginal people have simply refused to recognize Aboriginal nationhood, and that at the core of Canada's fundamental contradiction is a racism and ethnocentrism that rejects the viability and value of Aboriginal cultures. Laws and structures founded on assumptions of cultural superiority continue to form the basis of the relationship between our peoples.

We believe most Canadians agree that the time has come to overturn the false premises on which the relationship has been built. Canada has already demonstrated some willingness to leave this legacy behind by questioning the *Indian Act* regime and some of the more offensive policies that have been pursued in its name. But Canada must go further.

We are confident that most Canadians today reject the racist assumptions that have permeated the country's relationship with Aboriginal peoples. We hold great hope that all Canadians will join us in abandoning the ideas that have grown out of those assumptions. And we trust that Canadian governments will take the lead in correcting the wrongs committed.

While the history of the relationship has been largely a story of oppression and neglect, we are encouraged by the fact that this is not the whole story. There were more positive elements in the relationship, as shown in our discussion of the early contact period. Even when a coercive, intrusive and assimilative relationship was being imposed, Aboriginal peoples continued to struggle for restoration of a better relationship. Indeed, at one level, the semblance of a nation-to-nation treaty relationship obtained. Thus we have the precedent, the seeds of an alternative relationship. For this reason we speak of the need for a *renewed* relationship, rather than implying that the past should be put entirely behind us.

Some 500 years after the beginning of sustained contact, we find ourselves again having to define the terms of our joint life on the northern part of this continent. As at other times in our shared history, we find ourselves at a critical juncture, a time when displacement and assimilation have been discredited and their enormous human and financial costs have become painfully obvious.

But how do we proceed? Here again we encounter divergent understandings. For many non-Aboriginal people committed to change, effecting justice consists in negotiating a peaceful resolution to apparent conflicts. For Aboriginal

people, though, justice can be achieved only through a return to the original principles that formed the basis of the Aboriginal/newcomer relationship. Governments in Canada are preoccupied with mediating conflict within the legal and political framework that has been created over time, while Aboriginal peoples question the foundations of the framework itself.

Many aspects of the framework need to be addressed, but here we want to introduce several ideas that are fundamental to a renewed relationship. These themes are discussed more fully in the chapters that follow in this volume and in the other volumes of our final report.

The first and perhaps most important element is the need to reject the principles on which the relationship has foundered over the last two centuries in particular – principles such as assimilation, control, intrusion and coercion – and do away with the remnants of the colonial era. As a beginning, we need to abandon outmoded doctrines such as *terra nullius* and discovery. We must reject the attitudes of racial and cultural superiority reflected in these concepts, which contributed to European nations' presumptions of sovereignty over Indigenous peoples and lands. The renewed relationship needs to be built on principles that will return us to a path of justice, co-existence and equality. A detailed discussion of the principles the Commission believes should guide the renewed relationship is set out in the concluding chapter of this volume.

The second fundamental element is to recognize that Aboriginal peoples are nations and that the nationhood dimension of Aboriginal social and political organization must be recognized and strengthened. It should be clear from Chapter 3 that European peoples did not discover a vast and undeveloped land. They were welcomed with ceremony and protocol into the territories of nations. They did not encounter noble savages living in a state of nature. They came upon societies with ancient laws and cultures, peoples who each shared a language and a history, and who developed political and social structures beyond the level of kinship, clan or community.

We have also described how Aboriginal nations were undermined over time – through a process of coercive dispersal to make way for incoming settlers, through the establishment of reserves, through the imposition of band-based leadership structures under the *Indian Act* that fragmented nations and disempowered them, and through constraints imposed to limit collective organization. Despite this, Aboriginal peoples have never lost their sense of national consciousness – as Mi'kmaq, as Mohawk, as Inuit or as Métis of the west tracing the origins of their national heritage to the Red River settlements, to give a few examples. Indeed, many institutional foundations of national identity remain, including the Mi'kmaq Grand Council, the Haudenosaunee Confederacy with its system of representation of member nations, and the continued commitment of Aboriginal nations to treaties signed by their ancestors many years ago and still held sacred by their members today.

A third fundamental element is to recognize that Aboriginal nations were historically sovereign, self-governing peoples and that the time has come for other governments in Canada to make room for Aboriginal nations to reassume their historical self-governing powers. We are in the post-colonial era. The world has changed, and if Canada wants to retain a position of respect and influence in world affairs, Canada must change too. We cannot continue to advocate human rights to the third world while maintaining the remnants of a colonial system at home.

We discuss sovereignty, self-determination and self-government in greater detail in Volume 2, but this general point is inescapable: room must now be made in the Canadian legal and political framework for Aboriginal nations to resume their self-governing status. We see a time when three orders of government will be in place, with Aboriginal governments exercising sovereign powers in their own sphere. In contrast to recent policy, based on delegating municipal-style powers to Aboriginal people at the community level, the Commission believes that the right of Aboriginal self-government is inherent, that it cannot be delegated from someone else. It inheres in the peoples themselves and, in our view, is already recognized in the Canadian constitution.[1] Moreover, it is through the nation – the traditional historical unit of self-governing power, recognized as such by imperial and later Canadian governments in the treaty-making process – and through nation-to-nation relationships, that Aboriginal people must recover and express their personal and collective autonomy.

Re-orienting Canadian society toward respect for Aboriginal autonomy is no threat to Canadians. Aboriginal peoples have sophisticated perspectives on political relations with other peoples. Our relations with Aboriginal peoples have been corrupted not by the inadequacy of indigenous cultures but by their subjection to an alien European value system bent on destroying their way of life. Aboriginal political systems are predicated on key values such as co-existence, sharing, balance, equity and harmony. These values provide a sound foundation for reconstructing a relationship respectful of the rights and responsibilities of both partners.

Aboriginal peoples do not see recognition of their nationhood as a denial of the rights of other Canadians, let alone as challenging the sovereignty of the Canadian state. On the contrary, what they envision is a restructuring of the relationship between Aboriginal and non-Aboriginal people so that Aboriginal peoples can govern their own members in their own territories, in accordance with their own value systems and as one of three orders of government within a flexible and co-operative Canadian federation. We do not see this as a threat to the Canadian state or Canadian people.

The only threat we see comes from continuing to deny Aboriginal peoples justice within Canada. The social pathology, economic deprivation and political instability that prevail in many Aboriginal communities cannot be overcome

until we address the fundamental contradiction of continuing colonialism in this country. Aboriginal people's frustration and despair about their situation feed into an ever more intense rejection of the bases of social and political stability. This was illustrated by the 1990 crisis in Mohawk territory that preceded establishment of this Commission. It was a watershed event because it laid bare the ugly skeleton that much of our relationship with Aboriginal peoples has become – Mohawk people resisting further erosion of their land base and a government response that resulted in armed conflict. As the crisis at Kanesatake demonstrated, peace and stability are threatened by ideas and actions driven by outmoded conceptions of how we should relate to each other.

A fourth fundamental element of a renewed relationship is the need for Canadians to reach a better understanding of the place of Aboriginal peoples in Canadian society and for Canadian institutions to reflect that understanding. It has been suggested that there are many competing characterizations of what constitutes Canada, and none is accepted by all key constituencies.[2] However, the characterizations that predominate in public discourse and popular images – Canada as an association of two nations (French and English), Canada as a bilingual but multicultural country, Canada as a union of ten equal provinces, Canada as a single nation of free and equal persons – completely ignore or misrepresent the nature of the country from an Aboriginal perspective. If Aboriginal peoples are considered at all, it is through the familiar image of Canada as a mosaic rather than a melting pot. In this view, Aboriginal people are just one minority among others, eligible for funding from multiculturalism programs and included in affirmative action policies designed to remedy disadvantage and effect corrective justice.

Canadians need to understand that, whatever the merits of these characterizations in capturing an important dimension of the history and current reality of the country, equating Aboriginal peoples with racial and cultural minorities is a fundamentally flawed conception. People came to Canada from other countries in large numbers, over a period of several hundred years, and they came as immigrants – that is, for the most part they chose to leave their homelands as individuals and families and to settle in an already established country. Aboriginal people are not immigrants. They are the original inhabitants of the land and have lived here from time immemorial.

Aboriginal people cannot go elsewhere if they find Canada not to their liking. This is their home. Representatives of Aboriginal nations entered into solemn agreements with representatives of the British and French Crowns and with their successors, agreements that enabled Europeans and others to establish themselves in this country with minimal violence and confrontation. These agreements were and are the mechanism for affirming collective rights and obligations on both sides, for sharing the land and its resources, and for agreeing to live in harmony and partnership.

Thus it is the continuing nation-to-nation character of the Aboriginal/Canada relationship that differentiates the status of Aboriginal peoples from that of other people in Canada. Because of this, Aboriginal peoples are not cultural minorities in the sense that Canadians have come to understand the term. Neither are they citizens with a slightly expanded set of rights based on their descent from the original inhabitants. Aboriginal people have historical rights. They form distinct political communities, collectives with a continuing political relationship with the Canadian state. This is the central reality that Canadians must recognize if we are to reconstruct the relationship.

Another fundamental issue is the need for Canadians to recognize that Aboriginal cultures were vibrant and distinctive not only in the beginning but remain so today. Though bruised and distorted as a result of the colonial experience, inevitably changed by time and new circumstances, even in danger of extinction in some important dimensions such as language, nevertheless a fundamentally different world view continues to exist and struggles for expression whenever Aboriginal people come together.

Among the most important aspects of cultural difference is the emphasis still placed on the collectivity in Aboriginal society – that is, the importance of family, clan, community and nation; the importance of the collective to an individual's sense of health and self-worth; the conception of the individual's responsibility to the collective and of the collective's responsibility to care for and protect its more vulnerable members; the importance of collective rights and collective action. While much of contemporary policy is geared to the individual – providing welfare to those who are eligible, training to the unemployed – we need to understand that the problems of the relationship cannot be resolved by a narrow focus on individual-level problems and solutions. The importance of the collective, of collective rights and responsibilities, must be recognized.

In conclusion, as we search for justice and for solutions that can be identified in the common ground of the Aboriginal/non-Aboriginal experience, the certainty we face is two-fold. First, Aboriginal and non-Aboriginal people share Turtle Island, as will our children and our children's children. Second, balance must be restored in the relationship and, through it, peace brought to Aboriginal communities where turmoil and instability now prevail. This accommodation of Aboriginal nationhood can be achieved without undermining Canadian society. We all want a future based on respect for diversity, a future that is tolerant, co-operative and respectful of other peoples' need to live and govern themselves in the territory we have come to share.

We begin our more detailed consideration of the themes raised in this chapter with a discussion of Aboriginal cultures in Chapter 15, Rekindling the Fire, then conclude the volume with Chapter 16, Principles of a Renewed Relationship.

Notes

1. See Volume 2, Chapter 3. See also Royal Commission on Aboriginal Peoples, *Partners in Confederation: Aboriginal Peoples, Self-Government, and the Constitution* (Ottawa: Supply and Services, 1993).
2. James Tully, "Let's Talk: The Quebec Referendum and the Future of Canada", paper presented as the Austin-Hempel Lecture, Dalhousie University, Halifax, 23-24 March 1995.

15

Rekindling the Fire

Keep a few embers
from the fire
that used to burn in your village,
some day go back
so all can gather again
and rekindle a new flame,
for a new life in a changed world.[1]

1. Finding Common Ground Between Cultures

Through frequent and eloquent statements about the importance of culture and identity, Aboriginal people made abundantly clear to us their determination to sustain distinctive cultures, to revitalize the aspects of culture eroded by colonial practices, and to maintain their identities as Aboriginal people into the future. It became evident that if the Aboriginal and non-Aboriginal people of Canada are to share a future characterized by peace and creativity, that shared future must accommodate openly and generously the cultures and values that Aboriginal people are determined to retain. Anything less will be a continuation of the oppressive practices of the colonial past.

Standing in the way of this accommodation are stereotypes and erroneous assumptions held by both Aboriginal and non-Aboriginal people about each other's cultures. While Aboriginal people are confronted daily with the majority culture, non-Aboriginal people have few of the opportunities commissioners have had to share the world view of diverse Aboriginal peoples and nations. And even among the diverse peoples encompassed by the term 'Aboriginal', there are vast differences and problems of communication.

As part of our goal of extending the ground of intercultural respect and co-operation, it seemed important, therefore, to convey something of what we have come to understand about what Aboriginal people mean when they say that they want to retain their cultures, that they want institutions of governance to reflect their traditional ways, and that human services, to be effective, must be culturally appropriate.

In the following pages we introduce briefly the distinct peoples – First Nations, Métis and Inuit – who together constitute the Aboriginal peoples of Canada. We spend some time exploring the distinct modes of communication of Aboriginal people and the importance of first-hand experience and stories rich in metaphor for communicating Aboriginal meaning. We turn often to stories to share the understandings we have gained of Aboriginal cultures. Some of the stories concern spiritual matters; some are about land and environment and the ceremonies and symbols through which world view was instilled in successive generations. Still others illustrate the ethical systems that traditionally provided structure in social, economic and political relations. The relevance of traditions to meeting the challenges of contemporary life is the focus of the concluding section.

Reflecting on the descriptions of Aboriginal life, philosophy and spiritual practices presented to us, commissioners came to a number of conclusions. We arrived at a shared conviction that there is an Aboriginal world view that assumes different features among different peoples and in different locales but that is consistent in important ways among Aboriginal peoples across Canada. We became convinced that distinctively Aboriginal ways of apprehending reality and governing collective and individual behaviour are relevant to the demands of survival in a post-industrial society. And we concluded that this heritage must be made more accessible to all Canadians.

It would be presumptuous to suggest that we have come to understand Aboriginal world view, or that we could adequately represent in these pages the complexity and diversity of Aboriginal cultures. What we do undertake is to select elements of Aboriginal experience and philosophy as they were described to us, principally by Aboriginal people, and to interpret these in light of our experience.[2] Our interpretations reflect the judgement of Aboriginal and non-Aboriginal commissioners and the perceptions and advice of the interveners and advisers who assisted us. Our words reflect truth as we see it, but they are far from definitive. As a contemporary Aboriginal writer has noted about history, the recounting of many personal involvements provides the truest picture. "The versions are many and varied; all are true."[3]

It may be helpful at this point to clarify how we use certain terms that recur in our discussion:

Culture we understand to be the whole way of life of a people. We focus particularly on the aspects of culture that have been under assault historically by non-Aboriginal institutions: Aboriginal languages, relationship with the land,

spirituality, and the ethics or rules of behaviour by which Aboriginal peoples maintained order in their families, clans, communities, nations and confederacies.

Spirituality, in Aboriginal discourse, is not a system of beliefs that can be defined like a religion; it is a way of life in which people acknowledge that every element of the material world is in some sense infused with spirit, and all human behaviour is affected by, and in turn has an effect in, a non-material, spiritual realm.

Ethics, or rules guiding the conduct of human beings toward one another and with other creatures and elements of the world, are more than rational codes that can be applied or ignored. The rules are embedded in the way things are; they are enforced, inescapably, by the whole order of life, through movement and response in the physical world and in the spiritual realm.[4]

The interconnectedness of these elements – culture, spirituality and ethics – is summarized in a few words from an Anishnabe presenter who spoke at our hearings:

> Culture to us means a whole way of life – our beliefs, language, and how we live with one another and creation.
>
> Vernon Roote, Deputy Grand Chief
> Union of Ontario Indians
> North Bay, Ontario, 10 May 1993

2. Diverse Peoples, Common Goals

Across the breadth of this land commissioners heard Aboriginal voices speaking with confidence about the renewal of their cultures and the value of their traditions in charting a course for the future. The language used to speak of culture differed from region to region and again for First Nations, Inuit and Métis witnesses.

From First Nations persons we heard that prophecies foretell a dark night when teachings given at the foundation of the world will be almost forgotten, when the elders who are the keepers of wisdom will fall asleep, thinking that there is no longer anyone to listen to their counsel.

> In our history it tells us of a prophecy of the seventh fire, fire representing time, eras. In that prophecy, it says that in the time of seventh fire a new people will emerge to retrace the steps of our grandfathers, to retrieve the things that were lost but not of our own accord. There was time in the history of Anishnabe people we nearly lost all of these things that we once had as a people, and that road narrowed....But today we strive to remind our people of our stories once again, to pick up that work that we as Anishnabe people know.

> It is our work and we ask no one to do that work, for it is our responsibility to maintain those teachings for our people.
>
> Charles Nelson
> Roseau River, Manitoba, 8 December 1992

Métis speakers talked more often about gaining recognition for their unique identity as a people who have inherited cultural traits from both their Aboriginal and their European forebears and who have synthesized those characteristics in a distinctive way. They have formed communities where that distinctiveness can be expressed and supported. Their history has been marked by resistance to displacement by colonial society and governments' insistence that they choose between identifying themselves with their First Nations relations or disappearing into settler communities.

In research done for the Commission that brought together small groups of Aboriginal people living in urban areas to explore questions of culture and identity, Métis participants spoke of the pressure they experience to suppress their identity and the modest gains they have made as a people in correcting distorted representations of the role of Métis people in history:

> When I was going to school people would say: 'It's written right here in the books.' And I'd say: 'Well that's not what my father told me' or 'My grandfather didn't say that's right and I'm going by word of mouth.'
>
> And then my father would tell me to just believe what they said at school. He wanted me to finish school so I had to go by what they were saying...
>
> Though this man was able to express his cultural identity freely within his family [the authors explain], others were not. Members of the Métis circle often alluded to the family 'secrets' about having Métis heritage, or spoke about how they finally 'admitted' their Métis identity...
>
> Another example is the pardon of Louis Riel. We didn't ask for a pardon; we asked for total exoneration! And it is just those things we are continually faced with all the time. It's continual survival, an ongoing battle.[5]

Ollie Ittinuar, chairman of the board of the Inuit Cultural Institute in Rankin Inlet, who was 70 years old at the time of his presentation, described how the work of articulating and documenting Inuit culture from an Inuit perspective is still in its infancy:

> I have been working for a number of years in terms of the Inuit tradition. I keep trying to keep the tradition and culture alive...we don't want to lose it. ...no doubt the elders, in the next few years, they are going

> to be gone and while they are still alive, we are trying to work as hard as we can. Those who have seen...what they used to do, and what they remember from what they have learned from their parents and grandparents, we are working hard on this, so that once we are gone it will be known in the future and it can be recorded and documented.
>
> Ollie Ittinuar
> Rankin Inlet, Northwest Territories
> 19 November 1992

Inuit are concerned not so much about retrieving a remembered culture as creating space to practise knowledge that is fully functional among their elders.

To gain greater insight into the way cultural traditions shape behaviour and how they are regarded in the present, the Commission undertook to document life histories of Aboriginal people in various parts of the country. The stories told by Paulus Maggo of Labrador give substance to the qualities of character he says were and are still valued among Inuit:

> One important lesson I learned from my father and Martin Martin [a well known and respected figure in Labrador Inuit communities] is how to treat people with respect and handle crews at outside camps. I tried to show respect, to be trustworthy, to be fair to one and all in the same way that [my father and Martin Martin] were everywhere they went and in anything they did. Everything collectively they taught me was important but respect for each other was especially valuable....
>
> There was a rule relating to the treatment of one another in the community and at various camps that said people should live in peace, understanding and goodwill. There was a lot of respect for those who promoted that rule by their actions and how they treated their fellow Inuit.[6]

The determination of Aboriginal people to retain their cultures goes beyond nostalgia for an historical way of life. It is expressed in a deep appreciation of timeless human values and a sense of obligation to continue to represent those values for the sake of future generations.

> In our language we call ourselves *ongwehonwe*. Some people say it means real people. I heard one man explain it in this way: It says that we are the ones that are living on the earth today, right at this time. We are the ones that are carrying the responsibility of our nations, of our spirituality, of our relationship with the Creator, on our shoulders. We have the mandate to carry that today, at this moment in time.
>
> Our languages, our spirituality and everything that we are was given to us and was carried before us by our ancestors, our grandparents

> who have passed on. When they couldn't carry it any longer and they went to join that spirit world, they handed it to us and they said: 'Now you are the real ones. You have to carry it.' Now they are in the spirit world. They are our past.
>
> Now we have a responsibility to carry that because we hear seven generations in the future. They are our future. They are the ones that are not yet born.
>
> Charlie Patton
> Mohawk Trail Longhouse
> Kahnawake, Quebec, 6 May 1993

As we saw in our exploration of intercultural relations since explorers and settlers first arrived on this soil, the Aboriginal vision of their future is one that easily accommodates new relationships and new elements of culture. Their vision also holds tenaciously to the wisdom they have received from their grandfathers and grandmothers.

Many First Nations people anticipate that the time is at hand, as foretold in prophecies, when their special gifts will be recognized and their role in the family of humankind will be affirmed. The Métis emerged as a people at the meeting point of two cultures. They have never relinquished their commitment to bicultural dialogue. Inuit are applying their well-honed skills of adaptability to synthesize the best of the old and the new cultures in which they live. With evidence of readiness on the part of Canadian society to seek a just reconciliation, the path to renewed intercultural relations is clearer than it has been for several generations.

3. Words Are Not Enough

Fundamental to any attempt at intercultural understanding is the need to find a common language. While commissioners communicate principally in English or French, we had the benefit of interpreters at our hearings where Aboriginal people spoke in their own languages. Still, the challenges of communication go beyond those of technical translation and diligent interpretation. The very nature of Aboriginal languages and the characteristic modes of transmitting knowledge in an oral culture make a direct transfer of meaning problematic (see also Volume 4, Chapter 3).

At a Commission hearing in Eskasoni, Nova Scotia, Marie Battiste, a Mi'kmaq educator, gave an introduction to the structure of the Mi'kmaq language, in which verbs and nouns figure quite differently than they do in English or French:

> The [Mi'kmaq] language is built around relationships, and the relationships of people to each other are more important than anything else... [The Mi'kmaq language] is not a noun-based language like

> English, in which it is very easy to connect two nouns or to turn a thing that is happening into a noun by adding 't-i-o-n'. In Mi'kmaq everything operates from the basis of verbs, and verbs are complicated [because they show] relationships [to] all the other elements around them.
>
> Marie Battiste
> Eskasoni, Nova Scotia
> 7 May 1992

In an article published in 1994, Leroy Little Bear makes a similar assertion about the Blackfoot language, which, like the Mi'kmaq language, is part of the Algonkian language family, the most widespread Aboriginal linguistic group in Canada. Little Bear goes on to draw an analogy between the Blackfoot language and the language of quantum physics. He describes the transition from Newtonian physics, which conceives of particles as the basic building blocks of matter, to quantum physics, which proposes that the basic stuff of the universe is energy moving in a wave-like pattern, and he observes:

> Constant motion is inherent in the Native thought process, and consequently many Native languages, such as Blackfoot, are very action- or verb-oriented. We've always thought in terms of energy, energy fields and constant motion.[7]

Aboriginal languages, and therefore the reality they describe and represent, are not made up of separate things with fixed characteristics. The focus is on relations between things or persons, and the nature of the thing or person can be defined by the relationship between the speaker and the object. Battiste refers to the Mi'kmaq language's distinctions between animate and inanimate things:

> The objects around us with which we have an intimate relationship are animate and those things with which we don't have a relationship are inanimate. It has nothing to do with being alive or dead.
>
> Marie Battiste
> Eskasoni, Nova Scotia
> 7 May 1992

Irving Hallowell, an anthropologist specializing in studies of the Ojibwa, made the following report:

> Since stones are grammatically animate, I once asked an old man: Are *all* the stones we see about us here alive? He reflected a long while and then replied, 'No! But *some* are.'[8]

The Aboriginal reality reflected in these quotations is intensely dynamic and fluid, requiring each person to pay attention to how he or she approaches each new situation, in order to adopt the appropriate attitude, to create the desired relationship.

Even in such a brief excursion into Aboriginal languages, we begin to see the difficulty of translating concepts from one culture to another. Through the medium of language an Aboriginal child is taught from birth to perceive the world in particular ways. These perceptions are conditioned not only by *what* is said but also by *how* it is said.

A further problem in cross-cultural communication derives from the differences between a predominantly oral culture and a culture that relies predominantly on the written word, as Aboriginal and non-Aboriginal societies in Canada can be described today.

Transmission of knowledge about living, or just plain information, in an oral culture requires personal contact – or at least it did until the advent of radio and television. This personal communication therefore takes place in a context that is shared by speaker and listener, and many of the spaces in the verbal content can be filled in by the context.

Much of the traditional knowledge whose loss was lamented by elders and youth in our hearings was normally transmitted during the practice of land-based activities, often involving ritual.[9] With the loss of land and these land-based activities, the knowledge itself is at risk of being lost, because there are no verbal formulas to take the place of the experience that supports aural (heard) teachings. The reinstatement of sweat lodges, naming ceremonies and talking circles in contemporary Aboriginal communities demonstrates how a context for certain teachings can be re-created in an urbanized community, a prison yard or a college campus. Other teachings are intertwined so intimately with particular activities and environments that they can be transmitted effectively only in the original setting.

Matthew Coon Come, a Cree leader who spent a number of years at residential school and was later university-educated, described in a *Maclean's* interview his confrontation with the limitations of the literate education and intellectual fervour he brought home on his return to Mistissini, in the James Bay region of Quebec. Having asked his father, Alfred, to teach him about the land of his ancestors, he arrived in the bush with a topographical map of the territory they were about to explore.

> The first thing my Dad did was tear that map into tiny little pieces. He said I was committing the white man's mistake, making plans for the land without ever setting foot on it, without ever getting a feel for it.[10]

The need to walk on the land in order to know it is a different approach to knowledge than the one-dimensional, literate approach to knowing. Persons schooled in a literate culture are accustomed to having all the context they need to understand a communication embedded in the text before them. This is partly what is meant by 'clear writing', which is urged upon children as soon as they begin communicating practical or academic content. Persons taught to use all

their senses – to absorb every clue to interpreting a complex, dynamic reality – may well smile at the illusion that words alone, stripped of complementary sound and colour and texture, can convey meaning adequately.

The perception of the world as ever changing, ever requiring the human being to be alert to the requirements of proper relations, means that views from every vantage point are valuable in making decisions. While older persons are generally thought to be wiser by virtue of their longer experience, the perceptions of children and young people are not discounted. The roles of teacher and learner in an Aboriginal world can be interchangeable, depending on the context.

Conditioned by language and experience in early life to comprehend the world in culturally defined ways, Aboriginal people internalize this distinctive world view and carry it with them, even if they have adopted English or French as a working language, even if they have been transplanted to the city. Further, child-rearing practices maintain cultural traits by socializing successive generations into seeing and responding to the world in particular ways. Clare Brant, a Mohawk psychiatrist, wrote and lectured extensively on Aboriginal ethics and behaviours that persist in contemporary Aboriginal populations even when the conditions that contributed to forming those behaviours have disappeared.[11]

For Aboriginal people who retrace the path to their traditions as adults, their practice of cultural ways may reflect a conscious decision to resist pressure from the surrounding society to abandon an identity based on tradition. If the circumstances in which Aboriginal people express their world view are controlled by persons with a different view of reality, and if those in control are unwilling to acknowledge or accommodate Aboriginal ways, the scene is set for conflict or suppression of difference.

4. Meeting on the Trickster's Ground

Having said that Aboriginal and non-Aboriginal people tend to see the world differently and that differing constructions of language and modes of communication make it difficult to bridge the divide, is intercultural communication possible? While politicians and policy makers representative of Aboriginal and non-Aboriginal world views have seldom been successful in coming to one mind, artists have had considerably more success in representing Aboriginal experience in ways that tickle the imagination of non-Aboriginal people and evoke in them awareness of the otherness and the sameness of Aboriginal reality.

Literature provides telling insights into the character and ways of a people. One of the most popular figures in the oral traditions of Aboriginal people (which are now being transcribed by Aboriginal authors as well as anthropologists) is a character often referred to as the Trickster. He appears in differing guises in the traditions of various nations across Canada – as Coyote, Hare, Nanabush, Old Man, Raven, Wesakychak, Kluskap.

Butterflies

In the beginning, the animals took care of the first Anishnabe children. The animals provided everything for these babies – food, warmth and companionship. While the larger animals guarded the children and kept them safe and warm, the smaller animals played with the children, kept them happy and made them laugh.

The children in return imitated the animals, their protectors and playmates, and crawled around on all fours. In fact, the children neither knew of nor tried other ways to get around.

One day, Nanabush watched these children laugh, roll and tumble with their friends. He knew it was time for the children to know who they were, to know that they were Anishnabe, to grow up. Nanabush scooped up a handful of pebbles and cast them into the air.

The pebbles turned into butterflies – butterflies of all sizes, of all colours, fluttering here and there. The children looked up and saw the beautiful celestial winged creatures. And for the first time, they stood up on their legs and ran laughing, chasing the butterflies.

Source: Lenore Keeshig-Tobias, "The Trickster: Running for the People, Carrying Fire for the People", research study prepared for RCAP (1994).

Trickster is half spirit and half human. He is creator and spoiler, hero and clown, capable of noble deeds and gross self-indulgence. He is unpredictable, one minute inspiring awe for his creativity, the next moment provoking laughter at his foolishness. The profusion of stories and the repetition of themes involving this character are often referred to as The Trickster Cycle. The stories told here display the contradictory characteristics that reside in this complex personality.

One story, of how Coyote brought fire to the people, shows Trickster as a role model caring for the people, mobilizing the animals with their various gifts to co-operate in life-enhancing service.

Other Trickster stories show him indulging his appetite for sexual pleasure or excessive amounts of food, usually with an ending that demonstrates the self-defeating nature of this behaviour. The moral teachings are laced with humour and an easy acceptance of the truth that nobility and foolishness can reside in the same person – and you can never predict which face will show itself next.

The themes of good and evil, health and illness, hunger and plenty, appear in other legends as well, the opposites kept in precarious balance by the power of a good mind or shamanic knowledge. In Iroquois legend the evil twin who would destroy life is kept in check by the power of the good twin. In Inuit legends, Sedna, the sea spirit from whose severed finger joints the sea animals were

Wesakychak and the Little Birds

One day Wesakychak was walking through the woods when he came upon a nest of little birds. He saw they were defenceless and threw shit on them. Then he continued down the path and came upon a big stream. Two times he made a big run to jump over the stream and chickened out before he jumped. The third time he ran fast and jumped and then in the middle of the stream the parents of the little birds flew out and scared Wesakychak and he fell splat into the water! The moral of the story is: don't throw shit on little birds for one day they will grow up and could scare you.

Source: Sharon Boucher, in *Stories My Granny Told Me: Stories, Tales, Legends, Poems, Collected by the Young People of Fort McKay* (Fort McKay, Alberta: 1980), p. 11.

formed, rules the movements of those animals from her dwelling beneath the sea. When Inuit hunters are unsuccessful and food is scarce, shamans exercise their spirit powers to travel to the undersea world to persuade Sedna to release the animals so that the people may live.[12]

Aboriginal people are reclaiming their stories, just as they are reclaiming their ancestral lands and waters. These stories of ancient origin, grown familiar through frequent retelling, revealed Aboriginal people to themselves, depicted

Coyote Brings Fire to the People

The people are cold and freezing, and beg Coyote to get fire for them. Coyote reaches the fire-keepers' camp at the top of a great mountain. After surveying the area, he cannot figure out how to get the fire from the fire-keepers. So, he has to ask his blueberry sisters. They tell him he needs the assistance of the animals to accomplish his task, because it has to be done in relay. Each animal, because of its particular attributes, runs a particular part of the terrain: cougar carries the fire down the mountain side, fox through the tall trees, squirrel through the tree tops, antelope over the plains, and finally, frog through the water. Angry fire-keepers chase each animal. Finally, the last ember of the stolen fire is coughed up by frog and falls onto a piece of wood where it disappears. The fire-keepers having returned to their mountain top, Coyote then shows the people how to get the fire out of wood by friction: that is the twirling of a stick against a piece of wood.

Source: Barry Holstun Lopez, *Giving Birth to Thunder, Sleeping with His Daughter Coyote Builds North America* (Kansas City: Sheed Andrews and McMeel, Inc., 1977), p. 11.

the moral struggles and dilemmas that plague all humankind, and assured them that among their cultural treasures was the knowledge that could maintain a balance between positive and negative forces struggling for dominance in a realm not accessible to ordinary vision.

The yearning and tentativeness of an awakening generation's quest for mythological instruction and instructors is captured in Lenore Keeshig-Tobias' poem, "Running on the North Wind", written in 1981, early in her career as a writer and storyteller.

By mythology we mean not stories that are made up or untrue. Rather, a people's myths are stories that convey truths too deep to be contained in a literal account of singular experience. They tell of experience so significant that the story of it has been preserved in narrative and drama and song, from generation to generation, passing through so many storytellers that the contours of detail have been worn smooth, leaving it to the listener to fill in the context, to give the story life and meaning, to turn it into a teaching for today.

Attesting to the power of performance to move listeners today, Ta̲xwok (James Morrison), a Gitksan chief, said of the memorial song reaching back "many thousands of years" and sung at the ceremony where he acquired his chiefly name:

> I can still feel it today while I'm sitting here, I can hear the brook, I can hear the river run....You can feel the air of the mountain. This is what the memorial song is. To bring your memory back into that territory.[13]

In a slightly different vein, Jose Kusugak said, at the Commission's round table on education:

> With the oral history in mind, I started a program with CBC some years ago called *Siniraksautit* which means 'bedtime stories' in Inuktitut. I like to call them the blind man's movies because, when you are listening to that radio, you can close your eyes and the Inuit way of telling stories about their lives and legends...is so vivid that, when you close your eyes, you can actually see it just like the real movie.
>
> Jose Kusugak
> Ottawa, Ontario
> 6 July 1993

Stories with the power to capture the imagination are like a library of scripts that people can play with; they can try on different identities and roles, without the costs and the risks that accompany choices in ordinary reality. Stories foster character development by offering patterns that people can use as models or reject. They can also provide criteria for self-examination.[14]

When Aboriginal people speak of culture loss they are speaking, in large part, about loss of the stories that instructed them in how to be human in a particular cultural environment. 'Loss' is not quite the correct term, as we have seen,

Running on the North Wind

by Lenore Keeshig-Tobias

I

i have talked
to you in the twilight
before sleep
but never
for very long

i have wondered
about you despairingly
but never
for very long

knowing you
to be a trickster
i have
been cautious

and yet this morning
i dreamed of you
you were running
on the wind

going north
in disguise

II

the others said
LOOK there
goes Santa Claus

that's not Santa Claus
i said
that's Nanabush

you wore a long serge
coat bound with a most
colourful sash, but i knew

it was you i saw
your glinting eyes brown
face and long black hair

but the others didn't
seem to care
the card game and table

talk were
too involving

III

i hurried to the door
Nanabush i said calling

where are you going?

you stopped and
huddled in the snow
neath a prickly bush
Nanabush i said
why don't you visit
you looked back at me

were you goading me?

IV

then i held you
you cuddly old
teddy bear rabbit

i said things to you
and tried not to
frighten you

where are you going
Nanabush where are
you going why haven't

you come
this way before?

V

i held you cuddly
old teddy bear rabbit
then let you go

north
somewhere

don't forget
to come back
i called

don't forget
to come back
we need you Nanabush

VI

i dreamed of you passing
through my dreams heading
north this morning

were you goading me?

II

so, Nanabush
where have you been
all these years

down south
somewhere

in some
Peruvian mountain
village maybe

i wondered about
where you had gone

thought maybe
you had died
rather than just
faded away like
some dusty old robe

but ah ha
i caught you trying
to slip through
my dream unnoticed

Nanabush
where have you been
all these years

Machu Picchu?

the women there,
i hear, weave such
colourful sashes

Reprinted with the author's pernission.

particularly in the history of residential schools presented in Chapter 10; it would be more accurate to say, 'when culture and the stories that convey it were suppressed by the interventions of church and state'.

Reclaiming their stories is essential for Aboriginal people's self-knowledge. Retold in the context of contemporary lives, stories might well serve non-Aboriginal people too, as an introduction to Aboriginal world view. And who can tell; perhaps the Trickster would have something to say to Canadian youth who have never had a playful, unpredictable, good/bad teacher who always has to learn the folly of his ways in the school of hard knocks.

The stories recounted in this chapter do not fit easily into separate categories. The themes often merge or overlap, reminding us that life cannot be carved up into separate compartments; it must be experienced and understood holistically, because *everything is related.*

5. Spirituality

The fundamental feature of Aboriginal world view was, and continues to be, that all of life is a manifestation of spiritual reality. We come from spirit; we live and move surrounded by spirit; and when we leave this life we return to a spirit world. All perceptions are conditioned by spiritual forces, and all actions have repercussions in a spiritual reality. Actions initiated in a spiritual realm affect physical reality; conversely, human actions set off consequences in a spiritual realm. These consequences in turn become manifest in the physical realm. All these interactions must be taken into account as surely as considerations of what to eat or how to keep warm in winter.

Historian Olive Dickason describes this pervasive world view in the following words:

> [B]elief in the unity of all living things is central to Amerindian and Inuit myths, despite a large and complicated cast of characters who experience an endless series of adventures. Of utmost importance was harmony, the maintenance of which was by no means automatic, as the demands of life could make it necessary to break the rules; hence the importance in Native legend and myth of the trickster, who could be an individual but who could also be an aspect of the Creator or world force. As well, peaceful co-operation could be shattered by violent confrontations with malevolent, destructive powers....
>
> Amerindians and Inuit perceived the universe as an intricate meshing of personalized powers great and small, beneficial and dangerous, whose equilibrium was based on reciprocity. While humans could not control the system, they could influence particular manifestations through alliances with spiritual powers, combined with their knowledge of how these powers worked. Such alliances had to

> be approached judiciously, as some spirits were more powerful than others, just as some were beneficent and others malevolent; every force had a counterforce. Things were not always what they seemed at first sight; as with stones, even apparently inanimate objects could have unexpected hidden attributes. Keeping the cosmos in tune and staying in tune with the cosmos called for ceremonials, rituals, and taboos that had to be properly observed or performed if they were to be effective.... Even the construction of dwellings and the layout of villages and encampments...reflected this sense of spiritual order....
>
> Some (but not all) tribes recognized an all-powerful spirit, but the important ones to deal with were those who were directly connected with needs such as food, health, and fertility....Whatever the form of their particular societies, Amerindians led full and satisfying social lives within the framework of complex cosmologies, despite the simplicity of their tools.[15]

Exploration of Aboriginal belief systems demonstrates that for diverse peoples, their world was filled with mystery, but there were rules and personal guides, in the form of wisdom handed down from ancestors and spirit helpers who were available, if properly approached, to aid them in pursuit of a good life. It was the responsibility of every person to learn the rules, to acquire the measure of spiritual power appropriate to his or her situation, and to exercise that power in accordance with the ethical system given to the whole society as 'wisdom'.[16] Failure to do so would have repercussions not only for the individual; his or her transgressions of spiritual law could cause hardship for family members and associates in the community.

Aboriginal spirituality therefore had both private and public dimensions. Responsibility for observing the requirements of natural and spiritual law rested with the individual, but misfortune in the family or the interdependent community was considered evidence of a failure of morality or an offended spirit. Setting the problem right was a concern of the whole community, and ceremonialists, medicine persons or shamans were the agents called upon to diagnose the problem and restore balance on behalf of the community.

The interaction of self-disciplined observance of rules of behaviour and resort to shamans in public ceremonials to maintain order is spelled out in a conversation between Knud Rasmussen and Qaqortingneq, an old camp leader of the Netsilik Inuit, recorded in 1931 in Rasmussen's account of encounters during an expedition to the central Arctic. Rasmussen asked Qaqortingneq what he desired most in life, and the old Inuk replied,

> I would like at all times to have the food I require, that is to say animals enough, and then the clothes that can shield me from wind and weather and cold.

> I would like to live without sadness and without pain, I mean without suffering of any kind, without sickness.
>
> And as a man I wish to be so close to all kinds of animals that in the hunt and at all kinds of sports I can excel over my countrymen.
>
> All that I desire for myself I desire also for those who through relationship are near to me in this life.
>
> *What will you do to attain all this?*
>
> I must never offend Nuliajuk [the Sea Spirit] or Narssuk [the Weather Spirit]. I must never offend the souls of animals or a tonraq [personal protective spirit] so that it will strike me with sickness. When hunting and wandering inland I must as often as I can make offerings to animals that I hunt, or to the dead who can help me, or to lifeless things, especially stones or rocks, that are to have offerings for some reason or other.
>
> I must make my own soul as strong as I can, and for the rest seek strength and support in all the power that lies in the name.[17]
>
> I must observe my forefathers' rules of life in hunting customs and taboo....I must gain special abilities or qualities through amulets. I must try to get hold of magic words or magic songs that either give hunting luck or are protective.
>
> If I cannot manage in spite of all these precautions, and suffer want or sickness, I must seek help from the shamans whose mission it is to be the protectors of mankind against all the hidden forces and dangers of life.[18]

Children in Aboriginal cultures are prepared from birth to learn and respect teachings about spiritual reality and the responsibilities of human beings to maintain the order of the universe. The obligation of human beings to adapt to the natural order is put into perspective by the observation that human beings were the last to emerge in the order of creation, and they are the most dependent of all creatures on the sacrifice of plant and animal life for their survival. It is proper, therefore, that they should behave with humility and thankfulness toward the earth, which nourishes them like a mother, and other beings that give up their lives for human sustenance.

The obligation of all Aboriginal people to reflect on their responsibilities is reinforced by stories, particularly stories of the Creation. Jacob (Jake) Thomas, a hereditary chief of the Cayuga Nation and a ceremonialist among the Six Nations of the Iroquois in both Canada and the United States, explained:

> Since the time of Creation the population of the Onkwehonweh were instructed. That's why we always go back to the time of Creation. We were always instructed from that time: Where did we come from? And what's our purpose in being here? And how did that tradition

> come about? We talk about the clan system. That's where it originated, from the Creation.
>
> Chief Jacob Thomas
> Iroquois Confederacy
> Akwesasne, Ontario, 3 May 1993

In the Yukon and elsewhere we heard people reflecting on the fundamental question of what it means to be human and saw them turning to their elders for enlightenment:

> Who am I? Being of Tlingit ancestry and [knowing] that 'Tlingit' means 'human being'...how do you be a human being? Talking to some of the elders on things like that, they look at different approaches. Being a human being, you have certain rights, obligations and responsibilities. One is that you have an obligation to treat all people and all things with respect. You have the obligation and the right and the responsibility to share with all people, all things, all beings. You have a right and an obligation to the education of children, the education of yourself, of your family or your nation. You have a right and obligation to maintain economies.
>
> ...when we look at this, this doesn't differ around the globe because all human beings have certain rights. The question of how we express those rights becomes important.
>
> Mark Wedge
> Yukon Indian Development Corporation
> Whitehorse, Yukon, 18 November 1992

All human beings share common rights, but the way these are expressed by Aboriginal people across Canada takes on a particular shape, joining them with extraordinary consistency in kinship with the land and all the creatures and elements with which they share life.

6. The Land That Supports Us

When Aboriginal people speak of the land they mean not only the ground that supports their feet; they also include waters, plants, animals, fish, birds, air, seasons – all the beings, elements and processes encompassed by the term 'biosphere'.

The many nations that occupy ancestral homelands describe their presence in those locations as having been ordained by the Creator. Will Basque says of the Mi'kmaq,

> When Chief Membertou entered into this agreement with the Jesuits and with the Church [1712 Concordat with the Holy See in Rome] he emphasized that we will keep our language and that we will always be able to talk to God in our language. Of course, He understands

> Mi'kmaq. He gave us the language. He made us Mi'kmaq people from Mi'kmaq earth, just as the Bible says "from dust to dust".
>
> Will Basque
> Eskasoni, Nova Scotia
> 6 May 1992

Chief Edmund Metatawabin of Fort Albany on James Bay conveyed a similar conception, emphasizing the responsibility that came with the gift of land and life:

> Mushkegowuk of James Bay ancestry dating back 10,000 years hold a belief that the Creator put them on this land, this garden, to oversee and take care of it for those that are not yet born. The law of maintenance or just maintaining that garden means taking care of the physical environment. It also means maintaining a harmonious relationship with other people and the animals depended on for survival.
>
> Chief Edmund Metatawabin
> Fort Albany First Nation Community
> Timmins, Ontario, 5 November 1992

The proper way to discharge responsibility to the land and the animals that give up their lives is set out in legends and traditional teachings, such as the Mi'kmaq legend of Kluskap:

> [Kluskap] called upon an animal that was swimming in the river. This animal was the marten...He asked the marten to come ashore and offer his life so that Kluskap and Grandmother could continue to exist. And sure enough, the animal lowered its head and Grandmother snapped its neck and laid it on the ground. Kluskap felt so bad about taking the life of another animal that he asked the Great Spirit to give back life to his brothers and sisters so that they would be around, so that he, and the rest of the Mi'kmaq nations could rely on their animals for their existence. So marten came back to life and another animal lay in its place.
>
> Stephen Augustine
> Big Cove, New Brunswick
> 20 May 1992

This theme of renewal of life, accomplished through prayer and proper behaviour, is repeated in the oral traditions of all Aboriginal nations. It is often referred to as 'maintaining a balance'. We referred to it in Chapter 4 of this volume, with respect to the ceremonial observances of the Mi'kmaq, the Blackfoot and the nations of the Pacific coast. Roger Jones, a traditional teacher from Shawanaga First Nation in Ontario, described how traditional understandings and practices continue today:

When we were placed here on Turtle Island,[19] the Creator promised us forever life and love. He promised us all of those things that we would ever need.... Everything you will ever need is there for you. If you get sick, your medicines are there. Your food is there with those animals, with the fish, with the bird life, those trees, those rocks, that water that gives all life. The life blood of our Mother, the Earth, flows in the rivers, lakes and streams and brooks and creeks. That is our life blood. You will nourish from that. All life nourishes from that.

And if you take all of those things and live in harmony and in peace, and show the respect of that life, because each one of those things has a spirit you have no right to take life. And when we take life, we offer our tobacco.

If we are going to take a deer, we ask that deer if we can take its life so that we can sustain our own life and provide food and clothing for our family. And when that deer gives us that life, we again give our tobacco and say Miigwetch [thank you]. Thank you very much for giving your life for us. And that is the same with all of the things around us.

Roger Jones, Councillor and Elder
Shawanaga First Nation
Sudbury, Ontario, 1 June 1993

We said earlier that Aboriginal people have a sense of kinship with other creatures and elements of the biosphere. It is clear that the traditions of the various nations also teach that people who were put down in particular places have a sacred contract with the Creator to maintain the balance in concert with their other-than-human relations.

For many Aboriginal people, enduring confidence in this sacred contract makes the contention that they relinquished the land to imperial or Canadian governments completely untenable. Pointing to a written document that purports to have their forebears' marks of endorsement does not change the Aboriginal reality. No one can own the land, so no one could possibly sign it away. What is described as a compact with the Creator is a compact with life itself, and to violate the agreement would not be simply trading one kind of material security for another: it would be abandoning one's place in the natural order and risking retribution from which no government could provide protection.

According to oral tradition, treaties were entirely consistent with the Aboriginal relationship to the land, because they were instruments to include newcomers in the circle of relations with whom the original stewards were required to share life. The sacredness and durability of the historical agreements is beyond dispute for Aboriginal participants, observers and later historians of the oral tradition. The sacred pipe was smoked, the wampum belt was woven,

the medicine bundles were opened, expanding the compacts beyond the people actually present at the ceremony, to include as witnesses and participants the grandparents who had already gone to the spirit world and the children not yet born, whose well-being would depend on the decisions taken.

Elders say that the sickness that plagues so many Aboriginal communities and the threat to the sustenance of life on Turtle Island posed by environmental degradation result from the violation of natural law. Human beings were not given a mandate to take from the earth without limit. Ignoring that there is a balance to be preserved not only invites dire consequences, but also ensures that misfortune will follow and afflict all those who depend on the generosity of the land, which nourishes us like a mother. Aboriginal people listen to the prophetic messages that they have a responsibility to fulfil – bringing all peoples to an appreciation of their place in the natural order. For them, the prophecies are not relics of the past; they are beacons for the future.

The illustrations contributing to our perceptions of Aboriginal world view have so far been drawn predominantly from First Nations, so it is appropriate here to consider how generalizations about Aboriginal cultures relate to Métis people and Inuit.

7. Métis and Inuit Cultures

Métis culture and identity take diverse forms in different locations, as we detail in Volume 4, Chapter 5. Métis persons are the descendants of the union of First Nations or Inuit women and European men, but clearly not all the children of such unions identify themselves as Métis. Those who integrated into First Nations or Inuit communities, or into colonial society, were likely to take on the identity of the residential or cultural community they chose. Olive Dickason contends that the historical record of settlement in eastern Canada has regularly neglected and denied the fact of widespread intermarriage between First Nations women and Europeans.[20] Where a collectivity to support Métis identity is lacking, individuals of mixed cultural and biological origins may find themselves hard pressed to defend the distinctiveness of their dual inheritance.

It is evident that mixed heritage alone is not sufficient to result in a distinctive identity as a people. The conditions that fostered the emergence of a new people with a collective identity, first in the Great Lakes region and then at the Red River Colony (now Winnipeg), were the emergence of communities whose members reinforced one another in synthesizing their dual heritage in a distinct way of life; relative stability in political relations, which made frequent intermingling possible and avoided the need to choose sides for the sake of safety; and the opportunity to occupy an economic niche that reinforced shared experience and networks of relationships within the new group and established an identity relative to outsiders.[21]

Scholarly study of the history and culture of Métis populations in Canada and the United States has emerged only during the past 50 years and has concentrated on the Métis of the north-west and their role in the fur trade. The preoccupation with political and economic history has overshadowed the documentation of Métis social life. Little attention has been accorded the oral history of Métis people, and as the elder generations die and ways of life change, the picture of Métis life as perceived by Métis people is in danger of being lost. As historian John E. Foster observes,

> With the exception of the Riel Papers and a few other documentary collections, little material authored by members of métis communities has survived; however, recent efforts to record and to collect this material offer some promise. It is from these various folk histories that a sense of the métis view of their historical experience emerges. As with all people's perceptions of the past, the material must be approached with caution, in terms of both factual record and interpretive comment; but, as a vehicle for sustaining values and attitudes that span generations, folk history accounts can be extremely useful. Taken together, folk accounts, data amenable to quantitative analysis, and familiar impressionistic records suggest the possibility that a far more precise and exact understanding of the origins of the métis can be realized.[22]

Members of the Métis Nation, concentrated in the prairie provinces, trace their roots to the fur trade era and the emergence of distinct Métis settlements practising a mixed economy of hunting, agriculture, trading and freighting. Métis people in this region, even when they have lived in urban society for most of their lives, share a dream of homelands where their culture and history are honoured and where the tensions generated by rejection for being neither 'Indian' nor 'white' give way to recognition that they are a people with a history and a culture, springing from the encounter between Aboriginal and European peoples.

As documentation of Métis history and culture proceeds, there may well be other regional communities that assert, with justification, their identity as Métis. The Métis Association of Labrador points to their coastal communities, some of which originated in the late 1700s, with inland settlements being established subsequent to that period. As the children and grandchildren of mixed unions began to form distinct communities with distinct ways of life, the Métis population of Labrador emerged. The people of these communities have perceived themselves, and have been regarded by others, as collectivities that were distinguishable from the Inuit and Innu of adjoining territories, as well as from non-Aboriginal people. Their livelihood has depended heavily on seasonal harvesting of the sea and the land, in ways adapted from those of their Aboriginal ancestors.[23]

The Métis of Labrador are now asserting their identity as Métis people:

> We say to you that we are not 'Livyers', we are not 'settlers', we are the Métis – the progeny of Indians and/or Inuit and European settlers who, long ago, settled this harsh and beautiful land when others considered Labrador to be 'the land God gave to Cain'.[24]

Particularly in eastern Canada, some Métis people trace their descent from pre-Confederation treaty signatories and claim recognition of their treaty status. A presenter from the Métis Nation of Quebec pointed to these historical connections:

> So if my grandfather Humbus Saint-Aubin, who signed the 1750 treaties, were here, he would tell you so very clearly, even though over the years Claude was forced to take on an identity that was not linked to the Maliseet Nation, he is nevertheless the holder of a treaty and of treaty rights. [translation]
>
> Claude Aubin
> Métis Nation of Quebec
> Montreal, Quebec, 28 May 1993

In the Northwest Territories and the Yukon, where people of mixed heritage might live in communities intermingled with First Nations people and Inuit, where life on the land and the world view generated by that way of life are commonly shared, and where treatment accorded under the *Indian Act* has not been so rigid or divisive, there has been less need for Métis people to coalesce into political units with clear boundaries. Even here, however, the historical role of the Métis as the people in between is a cherished aspect of Métis identity.

Métis history has been subject to at least two significant distortions. First, as indicated in the passage from the Métis learning circle quoted earlier, Métis versions of history, transmitted from generation to generation in an oral tradition, have been distrusted by the academic mainstream, particularly in the schools that act as gatekeepers for knowledge in our society. Like other forms of Aboriginal knowledge, Métis versions of history have been dismissed in part because they have only the authority of an oral tradition in a society that relies on the printed word; in part because Métis perspectives diverge from official versions of history; and in part because resistance to displacement from their homes and way of life by Métis in the west has attracted negative stereotyping that works against respect for their identity and their world view.

The second prevailing distortion of Métis history and culture, particularly with respect to the fur trade, arises from the nature of the written sources documenting it: the records of traders and administrators concentrate on the activities of men, and they leave the impression that the world of Métis women is of

minor consequence. The fur trade is indeed a central fact in the emergence of the Métis people in the northwest, but the complementary roles and relationships within families other than those of well-placed traders who kept diaries and wrote letters, between men and women and between women and women, remain largely in the shadow.[25]

Despite regional differences, the aspect of culture shared by all Métis people is that they embrace both sides of their heritage. They reject the notion that they should choose either an Aboriginal or a non-Aboriginal identity, and they resist measuring degrees of affiliation with either side, a strategy others might wish to use to categorize them as something other than Métis.

Louis Riel, who is honoured by many Métis as both a political leader and a philosopher, emphasized that Métis identity is not defined in terms of race or, as some would have it, blood quantum:

> It is true that our Native roots are humble, but it is right for us to honour our mothers as well as our fathers. Why should we concern ourselves with the extent of our European blood or our Indian blood? If we have any sense of appreciation or filial devotion to our parents, are we not obliged to say, "We are Métis."? [translation][26]

Inuit, who share the designation 'Aboriginal' with Métis and First Nations people, are a distinct people with their own language, history and cultural characteristics, as described in Chapter 4. There is convergence in many respects between the way of life on the land practised by Inuit and the way of life of historical and some contemporary First Nations. Similarly, the values and ethics guiding social relations that have been influenced by those ways of life close to the land bear many similarities.

Because of the massive changes that Inuit society has undergone in the past 50 years, Inuit are keenly aware of the need to articulate and adapt the aspects of traditional culture that will serve them well and sustain Inuit identity in the future. Pauktuutit, the Inuit women's organization, has published a booklet entitled *The Inuit Way: A Guide to Inuit Culture*, describing the challenges facing contemporary Inuit and the priorities Inuit have set for the future:

> Inuit have undergone incredible changes in a very short period of time. A brief forty years ago, the vast majority of Inuit were living a traditional lifestyle centred around nomadic hunting, fishing and trapping. While they were in regular contact with Qallunaat [non-Aboriginal people] and their institutions, the Inuit culture remained largely intact.
>
> When they lived on the land, Inuit survived by working together, having an intimate knowledge of their environment and by being able to adapt to that environment. These skills have proven to be no less valuable today in modern settlements.

Inuit presently maintain a foot in both the traditional world and the modern world. They watch soap operas on T.V., ride skidoos and ATVs, travel internationally, operate sophisticated, successful corporations and argue fine legal details in courts of law. At the same time, Inuit continue to live their lives largely according to traditional values, cherish the time they spend on the land, enjoy visiting relatives and friends and eating country food.

Trying to maintain traditional values while dealing with the modern world can be difficult for any people. Traditional answers to modern problems may no longer be effective. Problems with alcohol and drug abuse, high unemployment rates, family violence, high suicide rates, and a large gap in understanding between generations are all part of the high price Inuit have paid for their rapid transformation....

Regret for the passing of the 'old ways' and dissatisfaction with many aspects of modern community life continue to keep alive the desire to maintain traditional values for many Inuit. This does not mean that Inuit want to return to their old way of living. They still recall the privations and harshness of that life and have no wish to give up the relative comforts of modern community living. At the same time, there is great respect for people who still maintain a close tie to the land and preserve traditional skills....

[T]he basic values of modern Inuit society find their origin in the past and continue to play an important role in sculpting the modern culture of the Inuit.[27]

8. Ceremonies and Symbols

As Ollie Ittinuar told us in Rankin Inlet, the work of documenting Inuit oral traditions from an Inuit perspective is still in its early stages. The public ceremonies and the rituals of everyday life recorded by ethnographers of an earlier generation have largely fallen into disuse, replaced by Christian practice, which has been intolerant historically of what were termed 'pagan' beliefs and practices.

We know from the experience of First Nations people, whose ceremonies were similarly displaced, that the understanding of the world, the values and attitudes embedded in an ancient culture, survive in people's hearts and minds long after the outward signs of tradition have disappeared. When the traditional language remains strong, as it does in the case of Inuktitut, cultural retention is especially vigorous. In Volume 3, Chapter 6 we examine how public policy can support the efforts of Inuit, Métis and First Nations people to document, maintain, and revitalize their languages and traditions.

Here we consider traditions and ceremonies principally of First Nations, many of whose people are engaged in concerted efforts to revitalize their culture after years of assimilative interventions from Canadian society.

The power of the land to shape the character of individuals and whole societies is one tenet common to many Aboriginal cultures. Roy Fabian, a Dene from Hay River, quoted an elder to this effect:

> One of my elders told me a situation. He said we can get rid of all the Dene people in Denendeh, we can all die off for some reason, but if there was another human being came stumbling along and came to Denendeh, the environment will turn him into a Dene person. It's the environment and the land that makes us Dene people.
>
> Roy Fabian, Executive Director
> Hay River Treatment Centre
> Hay River, Northwest Territories, 17 June 1993

In a closing statement to the British Columbia Supreme Court in the case of *Delgamuukw* v. *The Queen*, a Wet'suwet'en chief described his people's understanding of the working of natural law:

> Now this Court knows I am Gisdaywa, a Wet'suwet'en Chief who has responsibility for the House of Kaiyexwaniits of the Gitdumden. I have explained how my House holds the Biiwenii Ben territory and had the privilege of showing it to you. Long ago my ancestors encountered the spirit of that land and accepted the responsibility to care for it. In return, the land has fed the House members and those whom the Chiefs permitted to harvest its resources. Those who have obeyed the laws of respect and balance have prospered there.[28]

The means by which instructions were conveyed are described consistently as 'sacred gifts' received through dreams and visions, in fasting huts and sweat lodges, as well as from human teachers:

> In times of great difficulty, the Creator sent sacred gifts to the people from the spirit world to help them survive. This is how we got our sacred pipe, songs, ceremonies, and different forms of government....
>
> Included in the spiritual laws were the laws of the land. These were developed through the sacred traditions of each tribe of red nations by the guidance of the spirit world. We each had our sacred traditions of how to look after and use the medicines from the plant, winged and animal kingdoms. The law of use is sacred to traditional people today.
>
> Dennis Thorne
> Oglala Sioux Nation
> Edmonton, Alberta, 11 June 1992

Fundamental to the transmission of these teachings is the practice of ceremonies in which successive generations learn ceremonial protocol and the attitude of expectant waiting that appears to be a requisite for learning to perceive reality with what James Dumont calls "three hundred and sixty degree vision".[29] This all-around vision has several dimensions: ecological, temporal and spiritual.

Recalling our discussion of verb-based languages and the need to gain knowledge of the land by direct experience, Aboriginal cultures condition individuals to see relationships connecting phenomena rather than discrete objects. Consciousness of the interdependencies that connect all life and of human dependence on the harmonious functioning of all elements is fundamental to Aboriginal world views. If individuals are to fulfil their responsibilities in this interdependent order, and thereby live well, they must train their senses to be alert to all the cues in nature that are there to instruct them. The skills to observe and the expertise to describe reality in ecological terms constitute part of the knowledge that elders possess to an exceptional degree and that has begun to find a place in the classification systems of western science only recently (see Volume 4, Chapter 3).

The temporal dimension of vision, which is fostered by ceremonial practice, links past, present and future in a seamless whole. The Gitksan chief who sings a ceremonial song from time immemorial steps into a timeless stream and experiences the actual territory evoked in his consciousness by the song. An Iroquois ceremonialist who recites The Great Law is infused with the same good mind that inspired the founders of the Great Peace and to which the children not yet born will also have access. The grandfathers and grandmothers who have gone to the spirit world and the generations not yet born are present in the ceremonies in a powerful way, and they are even visible to some with highly developed awareness.

The introduction of ceremony and the display or use of ceremonial objects were understood to transform an otherwise ordinary transaction into a sacred, timeless event to which ancestors and descendants were, in a sense, witnesses. Investing an agreement with sacred meaning therefore created immutable obligations. Engaging in ceremony is like opening a door so that the spiritual dimension of reality, which always interweaves with physical reality, is acknowledged and experienced more fully. Clarity of perception through the physical senses intensifies, and a sixth sense – an intuitive way of knowing – comes into play to apprehend the 'gifts' and 'instructions' that may be communicated.

We use the term 'North American intellectual tradition' later in this report to signify the body of knowledge associated with the transmission of culture; but intellect is only one, and not necessarily the most important, part of the process. The straight-ahead vision of the linear, logical mind is highly efficient for some tasks. However, by narrowing the field of perception to gain focus, searching for cause/effect sequences in a time-limited frame, and dismissing the influence of

non-material forces, the logical mind may screen out much of the knowledge considered essential by many Aboriginal people for living well.

The ceremonies that pervaded every aspect of Aboriginal life served not only to focus, amplify and reinforce teachings about the nature of reality but also to communicate culturally sanctioned rules of behaviour. Ceremonies marking the transition from one life stage to another were particularly effective in inculcating proper attitudes and norms of behaviour.

Children were introduced to ceremony at birth. Asen Balikci describes a practice among the Netsilik Inuit for naming children. Women experiencing a difficult delivery would call out the names of deceased persons of admirable character. The name being called at the moment of birth was thought to enter the infant's body and help the delivery, and the child would bear that name thereafter.[30]

Naming of children also had spiritual significance among the Labrador Inuit. As reported by Reverend F.W. Peacock,

> Most Inuit believed that individuals had three souls. One is the immortal spirit which leaves the body at death and goes to live in the future world. The second is the vital breath and warmth of the body and ceases to exist at death. The last is the name soul and is not really a soul but that which embodies the traits of a person named and will persist after death through a person who is named for the deceased. In Labrador it was the custom to give a child several names of deceased relatives, later it was decided which of these names would be normally used by the child.[31]

Although beliefs about spirits were downplayed with the adoption of Christianity, some Inuit still name infants for deceased relatives in the belief that the identification will help shape their character.

In various First Nation cultures elders describe the practice of introducing a young child by name to the four directions, so that spirit helpers will recognize the child as one of the circle of relations. The revival of these cultural practices is evident in requests to elders to bestow names on children and the growing number of naming ceremonies involving commitments by extended family and community members to assure a child's cultural education.

For young men and young women making the transition from child to adult, it is important to recognize and assume responsibility for one's own life, to acquire one's own spiritual power and protection. In many Aboriginal cultures the principal ceremony marking the transition to adult responsibility for boys was the vision quest. Around the time of puberty, boys were shown by an older knowledgeable man how to prepare their minds through precise rituals and shed all material comforts and supports as they went 'out on the hill' or into a specially made lodge to fast for a period of two to four days. Preparation for vision

questing might start as early as age seven. In contemporary times it is often delayed until much later in life. The purpose of the quest is to gain a vision that will serve as a spiritual and moral compass to guide the individual in making future choices. A spirit often appeared in the form of an animal, which left some token of itself with the seeker as a sign of promised aid and protection. As modern supplicants report, the experience of fasting for a vision often leads the seeker to discover and plumb the depths of his inner self as well as leading him to a new way of perceiving the outer world.

Douglas Cardinal, the renowned Métis architect, has spoken about his experience of fasting as a mature adult. He spent four days and nights in a small lodge, without water, food or human contact, although the elder supervising the fast came round to close him into the lodge at night. Cardinal spoke of the changes he went through: the discomforts and complaints of the first day; the awakening to his surroundings on the second day and the discovery that ants and butterflies actually responded to his communications; the infusion of strength from a tree, the grass, the clouds, the sun and the earth on the third day; and, on the fourth day, the experience of his strength ebbing from him and the anticipation of imminent death:

> I was being more and more pulled out of my body. I just didn't want to go.
>
> All of a sudden my life started rolling back and I could see things I had done. My wife, my children, my parents and my friends. I couldn't go back to say I was sorry. I couldn't go back and say I was stupid. I'd thought I was going to live forever and I had all these loose ends.[32]

Throughout the experience Cardinal was enveloped in light. He engaged in dialogue with a person around him, a very positive being, in contrast to the negative being he was experiencing himself to be. In this dialogue he acknowledged that he was arrogant and powerless and that the review of his life left him with the knowledge of what not to do. And then:

> I finally went. It seemed like I was a part of everything, and I felt very, very powerful. I just wasn't there.

When the elder called him on the fifth morning, Cardinal was reluctant to return, because "Then I'd be confined and limited and I would screw up and do all the stupid human being things." The elder coaxed him with this invitation:

> You have to come back, just to see this day. You've never seen a day like today. There's dew on the grass, and sun shining on the dew and this golden hue is all over everything. The clouds are all red. The sun is brilliant and the sky is blue. It's the most beautiful day. You have to come back and see this beautiful day. It's wonderful to be alive and walk on this earth.

Cardinal came back into his body and acknowledged that it was a beautiful day, a fantastic day, the likes of which he had never seen, because he had never really looked. The elder asked, "Are you afraid of death?" Cardinal replied, "No. I'm just afraid I ain't gonna live right." The elder said, "Then you're a fearless warrior".

It is unusual to read such a detailed account of fasting and spirit encounters, but it is becoming increasingly common to hear of the effects of such encounters in transforming the consciousness, the moral commitment and the everyday lives of Aboriginal people. The transformation is especially dramatic in those who have pursued a path of rediscovering their roots, starting from a position of alienation from tradition and a sense of loss.

While people simply looking for adventure are discouraged from participating in ceremonies, many elders and ceremonialists take the position that anyone sincerely seeking knowledge should be welcomed into the circle. The Iroquois symbol, the Tree of Peace, with its white roots stretching out to the four directions, potentially guiding any person of any nation to the shelter of the tree of the long leaves, is reflected in the cautious but welcoming stance of traditionalists in many Aboriginal cultures.

The influence of vision experiences continues in successive generations, as was evident in our hearings:[33]

> My grandfather tried hard to keep his visions and dreams going in our family. When he was seven, the family left him at the summer camp to explore and know the ways of nature. All his peers were doing the same. He told me during this time he ate berries and squirrels. His communion with the trees started. The spruce provided him with comfort and warmth.
>
> The rocks spoke to him of their resilience and power. The water spoke to him of its reflectivity, purity and power. This was my grandfather's vision. During the summer my grandfather met a bear cub without its mother and they became friends. For 16 years, my grandfather's brother the bear came to live and play with him.
>
> Ron Momogeeshick Peters
> Toronto, Ontario
> 2 November 1992

Young women also participated in transition ceremonies celebrating their female nature at the time of their first menstruation. In most Aboriginal cultures it was usual for girls at this time to be isolated from other members of the household and ministered to and instructed by the older women of the family in the significance of what was happening in their bodies and the responsibilities of womanhood. Women might have dreams and visions bestowing power, but because their life force was destined to be expressed in generating new life, their encounter with the spiritual was generally believed to be an inward journey.

Teachings specific to women included ritual observances directed particularly to maintaining the health and well-being of their families.

Ceremonies surrounding first menstruation are being revived in many places after years of disuse, partly because of a generally renewed interest in tradition but also because of a specific interest in many communities in restoring reverence on the part of both men and women for the sacred power to generate new life.

The ceremony mentioned with greatest frequency in our hearings, and one that some commissioners had the privilege of experiencing, was the 'sweat'. Sweat ceremonies appear to have been practised widely among First Nations in ancient times. They are referred to in colonial accounts as 'sweat baths' associated with personal hygiene. According to accounts from people of First Nations, however, the primary purpose of the sweat ceremony is cleansing the spirit, to achieve personal awareness, and healing physical ills. It is led by a ceremonialist who, through fasting and apprenticeship with elders, has earned the right to lead others. Those who wish to participate present ritual gifts of tobacco and cloth to the leader. They may also present particular needs for which they desire prayer.

In some cases permanent structures are maintained for sweat ceremonies, but if not, the ceremony begins with preparation of the dome-shaped lodge, framed with willows and covered with canvas, which has replaced the animal hides of former times. A fire is built to heat stones, which are placed in a prepared pit in the centre of the lodge. With participants seated inside, helpers carry the heated stones and water inside the lodge and close canvas flaps over the entry, leaving the interior in total darkness. Songs acquired by the leader or his helpers are sung; tobacco or other aromatic herbs are burned; prayers are offered; and water is poured over the stones, sending up clouds of steam. In the interview quoted earlier, Douglas Cardinal described how the heat and discomfort intensified his commitment to his purpose in being there and precipitated an awareness of oneness with the elements of earth, air, fire and water that converged in the lodge.

Sweat ceremonies have been introduced in prisons and correctional centres across Canada as a means of reconnecting offenders with their Aboriginal identity and the human community. Sweat lodges are reappearing in diverse First Nations communities, reviving, sometimes in modified form, ceremonial practices that had fallen into disuse.

As described in Chapter 4, the raising up of chiefs and succession to rights to territory were marked by ceremony that, in oral cultures, was essential to confirm the assumption of responsibilities that could influence the safety or well-being of the clan or the whole community. Ceremonies likewise marked the termination of conflicts between nations or confirmed trading alliances. These ceremonies governing public obligations, formalized in protocol and embedded

in the spiritual laws that were the context of all relationships, were introduced and adapted in relations with European newcomers. As discussed in Chapter 5, colonial officials participated in ceremonial exchanges and adopted the language of kinship to describe the relationships thus confirmed, but it subsequently became evident that their view of what took place at these meetings differed profoundly from the Aboriginal understanding of events.

In light of the pervasive awareness of spiritual reality, preparation of souls for departure from this life and return to a spirit realm was an important aspect of Aboriginal ceremony. People in Aboriginal cultures believed that the spirits of the deceased were reborn in subsequent generations. Death was considered a normal part of life, not something to be ignored or hidden away.

The symbolism of the four directions was very significant in some traditions. Souls were believed to enter life through the 'eastern door' and depart through the 'western door'. Funeral practices often included placing prized possessions on the platform, hut or grave where the body rested. In fact, grave sites are among the richest sources of artifacts for archaeologists to reconstruct cultures that have passed away.

As an example of burial practices, we cite Hugh Dempsey's account of the passing of Crowfoot, a revered chief of the Blackfoot nation in the treaty era. In Crowfoot's final hours,

> [he] drifted into that shadow world between life and death. He regained consciousness once during the afternoon and told his wives there should be no severing of fingers and scarring of their flesh when they mourned his passing. The next day, April 25, 1890, at three-thirty in the afternoon, the old chief died.
>
> On the following day, the agency employees built a coffin seven feet long, three feet wide, and three feet deep, into which the chief's body was placed.... The coffin had been made extra large so that the chief's personal possessions could be placed at his side for his trip to the Sand Hills [the empty land where the Blackfoot spirit went after death]. His tobacco, pipe, knife, blankets and other objects all were beside his body as it lay in state....
>
> The Indian agent wanted to bury Crowfoot under the ground like a white man, but the Blackfeet refused; they insisted he be placed above the ground like an Indian. Finally, in a compromise, a grave was dug so that part of the coffin was below the surface and part of it was above, and a small log house was built over it for protection.[34]

It was reported in the *Calgary Daily Herald* that Crowfoot's favourite horse was shot at his death, so that he might ride it in "the happy hunting grounds".

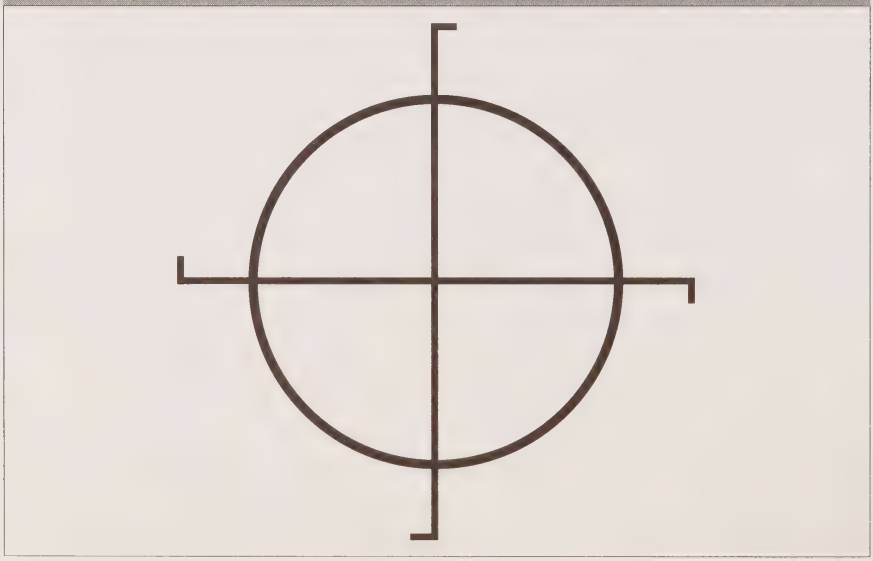
In Chapter 4 we referred to creation stories, events associated with the foundation of particular societies, and symbols incorporated in oral tradition to

emphasize the importance of cultural values – the fire and sparks signifying the Creation and the spiritual dimension of life among the Mi'kmaq, the Tree of Peace representing the core values binding the Iroquois Confederacy, the kayak, igloo and traditional clothing symbolizing the resourcefulness of the Inuit. As the material culture of Aboriginal people has changed over centuries of contact, symbols embodying the core of traditional teachings have retained their power to evoke respect and convey meaning to successive generations of Aboriginal people. Aboriginal societies used a variety of instruments to aid accurate recall of important teachings: notched sticks, wampum belts, birchbark scrolls, pictures etched in rock, bone or ivory or painted on leather, songs handed down within families or circulated throughout camps. We describe a small selection of symbols here to illustrate their richness and variety.

The circle is perhaps the symbol most widespread among Aboriginal cultures. All creatures in the biosphere are conceived of as part of the circle of life. Time is understood as cyclical, returning the daylight and the seasons in a predictable round and carrying human beings inevitably toward a stage of life where they are dependent, like children, on the strength and care of others.

The medicine wheel, a centred and quartered circle, is a teaching device associated mainly with the First Nations of the plains – Cree, Blackfoot, Dakota and others. It has been adopted in recent years by teachers in many First Nations. The medicine wheel represents the circle that encompasses all life and all that is known

FIGURE 15.1
The Medicine Wheel



The Drum

It is said that the drum is the Dene culture.

The drum represents unity of self, others, the spiritual world and land.

The Dene must grasp the drum and be in respectful relationship with themselves, with others and with Mother Earth.

To grasp the drum is to maintain integrity and to live life to its fullest.

The drum is the Dene culture.

The drum is the voice and the language of the elders speaking to the Dene.

Two strings, side by side and yet apart, work together like the Dene, to amplify the voice of the elders.

Source: Northwest Territories Education, Culture and Employment, Curriculum Document, *Dene Kede* (1993, p. xvii).

or knowable, linked together in a whole with no beginning and no end. Human beings have their existence in this circle of life, along with other beings and the unseen forces that give breath and vitality to the inhabitants of the natural world. The lines intersecting at the centre of the circle signify order and balance.

They help people examine experience by breaking down complex situations into constituent parts, while reminding them not to forget the whole. The centre of the wheel is the balance point where apparent opposites meet. The flags at the ends of the intersecting lines signify the four winds whose movement is a reminder that nothing is fixed or stagnant, that change is the normal experience and transformation is always possible.

An infinite number of elements of analysis can be inserted in the medicine wheel for teaching purposes. For example, it is often used to describe the life cycle – child, youth, adult and elder. It is acknowledged that the circle represents the whole of a person's life, which does not unfold only in chronological order. Children sometimes have wisdom far beyond their years, characteristic of the elder stage. An adult may carry on the undisciplined behaviour of the youth. Culture heroes in legends often embody the wisdom of mature years without losing the attitude of wonder at new experiences that we usually associate with childhood.

The drum is also a circle. Ceremonial drums are constructed in a ritual manner. Their sound is described as the heartbeat of the nation or the heartbeat of the universe. The symbolic meanings of the drum are described in the accompanying extracts from the curriculum guide developed in the Northwest Territories for education on Dene culture.

The Drum Dance

When a Dene dances with the drum, it is a time of reflection and self-evaluation.

To dance the drum dance is to know oneself.

When the Dene dance the drum dance, they are at their closest to the Creator.

When the Dene dance with the drum, they dance separately but together in harmony.

To dance as one requires respectful relationships.

Yet they dance separately respecting the spirit of one another.

There is no desire to control or to have power over another.

The power comes from the voice of the drum.

They dance in a circle, like the drum and like the earth.

To dance as one means survival as a people.

Source: Northwest Territories Education, Culture and Employment, Curriculum Document, *Dene Kede* (1993), p. xviii.

The sacred pipe was referred to in our discussion of the Blackfoot in Chapter 4. Smoke ceremonies to offer prayers and petitions to the Great Spirit were practised not only in the cultures of plains nations, including Dakota, Cree and Saulteaux, but formed part of Anishnabe (Ojibwa) and Iroquoian ceremonial life as well.

The pipe consisted of a stone bowl, symbolizing the earth, a wooden stem, symbolizing all plant life, and a leather thong or covering securing the parts, symbolizing animal life. At the beginning of its ceremonial use, a hot stone was ritually prepared, and sweetgrass, sage or tobacco was sprinkled on it to make an aromatic smoke. According to Basil Johnston, an Ojibwa ethnologist, the Cree and Saulteaux people of the plains used bearberry leaves or the inner bark of red willow before tobacco was introduced from the east through trade.[35] The pipe and other ceremonial objects were purified in the smoke, which carried prayers to the Great Spirit.

While filling the pipe with sacred tobacco and taking the first puffs, the ceremonialist offered prayers to the sun, which symbolized the Creator, to the earth, which generates all life, and to the four directions. The east is the place of dawning, to which human beings look as the source of light and knowledge

The Story of Inuksuk

I am an inuksuk, a lonely figure overlooking a lake. In an ancient time, whose memory has been wiped from young and old, a frail, struggling form in fur picked me up off the ground, placed me here on a rock, and said: "May you ever point to the fishes under this lake, as long [as] there is winter and summer."

I have lost count of how many people have visited me. As many times as you can count your fingers and toes, people have knelt above me to consult me, to see which way I point to the fishes in the lake below. Many lives have been saved as a result of my faithfulness to the frail man's command.

I have been through the terrors of many blinding snowstorms, but I have kept my post.

Source: Mark Kalluak, quoted in Luke Suluk, "Inuksuit", *Inuktitut* 76 (Inuit Tapirisat of Canada, 1993), p. 16.

and new beginnings. The prayers to the west, where the sun sets, acknowledge the transitory nature of human life. Prayers to the north, whence the cold winds of winter blow, acknowledge that purification of the spirit comes through struggle. The final whiff of smoke, directed to the south, affirms that after winter there is summer, that human beings can hope to realize their aspirations.

In the smoking ceremony the human being brings together all the knowledge and power of the sun, the earth and the four directions and locates himself at the spiritual centre of the universe.

> From the first smoker the sacred pipe is passed on to all those taking part in the ceremony. Each enacts the thanksgiving as each personally makes the petition. Only after everyone has partaken in the smoking and has instilled into his inner being the mood of peace, may other ceremonies commence and receive validation. Such was the pre-eminence of The Pipe of Peace smoking.[36]

Inuksuit are markers constructed by Inuit. Stones are placed on top of one another in particular formations. Traditionally they had many functions: one rock placed atop another formed a directional pointer, indicating the way home; vertical and horizontal stones were arranged to make a 'window' for sighting. Some formations indicated good fishing places; other inuksuit diverted caribou from their original path toward a place where they could be killed in the water. An inuksuk might mark a cache full of meat or signify a place where one seeks help or favour and where tokens of thanks were left. Or a great inuksuk might have been built to show the strength of its builder.[37]

Many of the inuksuit known by Inuit elders have stories behind them, of times when Inuit lived on the land and were saved from starvation by markers indicating wildlife and fishing areas. Some pillars are so massive that it is a mystery how they could have been erected without machinery.

For Inuit, the great stone markers constructed in human form are especially powerful symbols of their long history in their homelands and the capacity for survival that has shaped their character. The inuksuk symbol is seen with increasing frequency as a marker of Inuit attachment to their culture.

The Métis flag is a symbol of the Métis nation that emerged in the nineteenth century as a distinct cultural and political entity in the Red River region of present-day Manitoba. One of the formative events in Métis Nation history was the Battle of Seven Oaks in 1815, where attempts to restrict fur-trade activity resulted in armed confrontation (see Volume 4, Chapter 5). The flag acquired by the Métis at that time displayed a horizontal figure eight on a red background. The red ground has been replaced by blue in current usage. Contemporary Métis explain the symbolism in the following way:

> The blue background is derived from the alliance [of the Métis] with the North West Company, who used blue as a main colour rather than the red of the Hudson's Bay Company. The horizontal eight is an infinity sign, which has two meanings: the joining of two cultures, and existence of a people forever.[38]

The **Assomption sash** has also been adopted as a symbol of Métis tradition. From the mid-1700s to the 1860s, Métis people wore a distinctive style of dress that combined features of European and Indian handiwork and design. Portraits of the era show Métis men dressed in blue summer coats, held together with a sash, decorated leggings and moccasins, with a colourful pouch for carrying gunshot or tobacco hung on the breast or at the waist. In wintertime, peaked caps were worn with leather coats that were painted, decorated with porcupine quill work and trimmed with fur.[39]

Assomption sashes acquired their name from the community of L'Assomption, near Montreal, where they were made in large numbers for the fur trade. They were woven of wool, in bright colours, using a finger weaving technique and frequently displaying an arrowhead design running the length of the article.

Traditionally, the Métis sash had many uses. It could be as long as 20 feet and was tied around the waist of a coat for warmth. It could also be used as a rope to haul canoes during a long and difficult portage or as an emergency bridle for horses during the buffalo hunt.

In contemporary Métis society the sash is used as a symbol in public events. The Manitoba Metis Federation has established the Order of the Sash; sashes are presented to recognize and honour outstanding individuals and thank them for contributions to the Métis Nation.[40]

At a learning circle of Métis people, convened as part of a Commission research project, a participant described with pride the multi-coloured sash he had designed, which had been accepted by the Manitoba Metis Federation as a contemporary symbol:

> The new sash colour represents the following: red is the traditional colour of the Métis sash. Blue and white symbolize the colour of the Métis nation flag.... Green symbolizes fertility, growth and prosperity for the new Métis nation. And black symbolizes the dark period in which the Métis people had endured dispossession and repression...after 1870.[41]

Traditionally, the lives of Aboriginal people, wherever they lived, were surrounded by symbols and enfolded in ceremony from birth to death. Symbols were objects selected or fashioned from the natural environment and invested with special meaning. Ceremonies took their shape from fundamental beliefs about the nature of the universe and the place of human beings in the natural order. They instilled confidence that safety and sustenance were attainable in life. Symbols and ceremonies combined to reinforce values – deeply held beliefs – and ethics – rules of behaviour. Together, values and ethics represent the common understandings that give meaning to individual existence and cohesion to communities. They are the substructure that supports civil behaviour and harmonious community life.

The effectiveness of ethical systems in Aboriginal communities in earlier times and current concerns about the breakdown of order in Aboriginal communities are prompting renewed interest in traditional cultures. We turn now to a discussion of ethical norms and the influence of culture in several areas of community life: social relations, economies and governance.

9. Culture and Social Relations

Presenters at our hearings spoke often of the instructions that came to their people from the spirit of the land, from the Creator at the beginning of time, or as spiritual gifts in fasts and ceremonies. As these instructions were reported, it was evident that they were not random or individual directives, but rather components of a system of ethics in which common themes recurred. In one of the life histories we commissioned, George Blondin, a Dene elder, set out the Yamoria Law of the Dene, which summarizes many of these themes.

Clare Brant, the Mohawk psychiatrist, also identified commonalities in the behaviour of his Aboriginal patients and kin. Brant's observations were based on a lifetime of personal experience, 24 years' practice of medicine and psychiatry with Aboriginal patients, extensive consultative services to professional helpers across Canada, and an extensive review of literature. His observations have been widely quoted and have been elaborated by other professionals, notably practitioners in

The Yamoria Law of the Dene

Law Number One

Share all big game you kill.

Share fish if you catch more than you need.

Help Elders with wood and other heavy work.

Help sick people in need – such as bringing wood, hunting and fishing – or gather for support.

If the head of the family dies, everybody is to help the widow and children with everything they need.

Love thy neighbour strongly.

Orphans are to go to the closest kin of the one who dies or, by agreement, to another close kin.

Leaders of the tribe should help travellers if they have hard times far from their homeland.

These eight branches are one law. Sharing is the umbrella to all branches.

Law Number Two

Do not run around when Elders are eating, sit still until they are finished.

Law Number Three

Do not run around and laugh loudly when it gets dark; everybody should sleep when daylight is gone.

Law Number Four

Be polite, don't anger anybody, love each other.

Law Number Five

Young girls are not to make fun of young males or even older men, especially strangers.

Law Number Six

Love your neighbour and do not harm anyone by your voice or actions.

Law Number Seven

All Elders are to tell stories about the past every day.

Law Number Eight

Be happy at all times because mother earth will take care of you.

Source: George Blondin, "My Life in the Sahtu", research study prepared for RCAP (1993).

the field of justice.[42] Brant articulated the "ethic of non-interference", which he described as "a behavioural norm of North American Native tribes that promotes positive inter-personal relations by discouraging coercion of any kind, be it physical, verbal, or psychological."[43] Related to the core ethic of non-interference were the ethics of non-competitiveness, emotional restraint and sharing. Brant also identified four other less influential ethics: a concept of time that emphasizes doing things 'when the time is right' rather than by the clock; shying away from public expressions of praise; ordering social relations by complex but unspoken rules; and teaching by modelling rather than shaping (direct instruction).

Brant's clinical and personal observations were made in interactions with Cree, Ojibwa and Iroquoian people, principally in Ontario, but Aboriginal people and professionals in other regions have welcomed his analysis as shedding light on behaviours often encountered in Aboriginal people that can be quite bewildering to non-Aboriginal people. Brant did not endorse the practice of these ethics uncritically; he observed that these interrelated behaviours served to suppress conflict in small societies where a high degree of co-operation was required for survival. If an individual's social environment changed, however, and success or survival came to depend on competitive achievement, holding on to the old conflict-avoidance behaviours could put a person at a serious disadvantage.

Even within Aboriginal society, some counterbalancing negative outcomes could be observed. Brant pointed out that in the absence of direct instructions on how to behave, teasing or shaming by the community were used as means of social control. If a child was left to solve problems without interference or direction, and the problems were beyond the child's repertoire of solutions, the prospect of failure or the embarrassment of actual failure could be quite overwhelming, even when the genesis and the solution of the problem were beyond the child's control. In a rapidly changing environment, where old solutions often have to be adapted, the ethic of non-interference has the potential to leave young people in a very vulnerable situation, fearful about the prospect of failure and reluctant to try new behaviours.

While parents could avoid threatening or controlling their children directly, there were nevertheless situations in which children had to be warned. Such warnings were couched in terms of enemies or 'bogey-men' lurking outside the house or beyond the edge of the clearing, or stories about practitioners of 'bad medicine' who could not be identified by their appearance alone. The mechanism at work here is projection – the assumption that the source of evil or frustration lies outside of ourselves and our own circle. Brant comments:

> [T]he notion that all frustration is due to causes outside the group generates feelings of powerlessness over and resignation to evil forces that, in reality, are merely the darker side of one's own nature and that of others. Projection relieves the individual and his society of responsibility.[44]

The inference is that rules of behaviour that have evolved in one cultural milieu may have to be modified as circumstances change. We also believe, however, that within Aboriginal cultures there are fundamental values that continue to have relevance in changing circumstances.

In our view, the ethics described in Brant's article are the natural outgrowth of values flowing from the spiritual world view and relationship to the land described earlier in this chapter. The values or beliefs fundamental to this world view include the belief that there is a natural law that cannot be altered by human action and to which human beings must adapt; the obligation to maintain harmonious relationships with the natural world and those to whom you are related; personal responsibility to adhere to strict behavioural codes; and an ethic of sharing, which involves returning gifts to human and other-than-human relations to sustain the balance of the natural order.

George Courchene, an elder from Manitoba, spoke to us about the need to bring forward traditional teachings for young people and summarized the central teachings he had received from an elder who "lived for forty years in the mountains by himself to learn about this land":

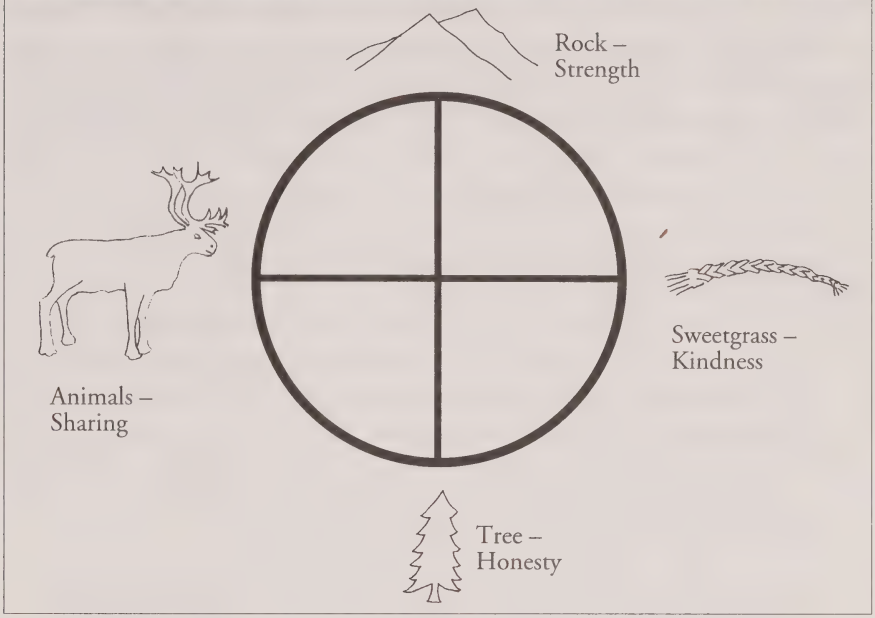
> When the Creator made two people at the beginning of time the Creator gave them Indian law to follow. He gave them four directions. He gave them sweetgrass, the tree, the animal and the rock. The sweetgrass represents kindness; the tree represents honesty; the animal, sharing; and the rock is strength.
>
> Elder George Courchene
> Sagkeeng First Nation
> Fort Alexander, Manitoba, 30 October 1992

In the transmission of oral traditions, these four symbols are often presented graphically in the context of a medicine wheel (see Figure 15.2).

In our report on suicide among Aboriginal people, *Choosing Life*, we wrote of the role played by culture stress and the erosion of ethical values in the genesis of suicidal behaviours. Merle Beedie, an elder who lived through successive placements in four residential schools, confirmed from her own experience that reclaiming traditions was a source of self-confidence and self-esteem:

> When I talk about the changing attitudes of some – the evidence is already happening in our communities, changing the attitudes about what we want to do just by us following the Anishnabe road. Some of us are beginning to realize what good people we are. I'm becoming a better person because I'm following some of our traditional values. As we learn more and more of these things we become stronger and stronger.
>
> Merle Assance-Beedie
> Barrie Area Native Advisory Circle
> Orillia, Ontario, 14 May 1993

FIGURE 15.2
Anishnabe Teachings



10. Culture and Economy

In Chapter 3 we described in some detail the economic practices of several Aboriginal cultures in the pre-contact and early contact periods. Here the focus is on two ethics or rules of behaviour that are woven through those economic practices. The first is that the land and its gifts are to be enjoyed in common by the group placed in a particular territory. The second is that the nation or collective organizes the use of the territory by the members of the group and defends the integrity of the territory from outside intrusions.

Chief Frank Beardy of Muskrat Dam in northern Ontario spoke of the understanding of his grandfathers when they signed the 1929 adhesion to Treaty 9.

> They didn't say anything about the land being taken. They agreed to share the land. How Native people look at the land is that no one person owns that land. The Creator owns that land. How can our forefathers, our grandfathers, give away something that they didn't own in the first place?
>
> The spirit and intent of the treaty from which we want to work with the two levels of government is based on how our elders wanted

> to base that treaty. That is to live in peaceful co-existence with the white man and to share the bountiful gifts of the Creator.
>
> Chief Frank Beardy
> Muskrat Dam First Nation
> Big Trout Lake, Ontario, 4 December 1992

Chief Jake Thomas, a ceremonialist and oral historian, explained the connection between territory, generosity to visitors and common property. He did not place a date on the origin of the practices sanctioned by the Creator and the Great Law, except to say that they existed long before the arrival of Europeans. Each of the five nations of the Iroquois had its own territory but the words used in Iroquoian languages to describe the territory "means where they live – Mohawk – the territory where they live", but it did not mean that the Mohawk owned the land, "because it was made by the Creator. We can use it as long as we live".[45] Visitors from allied nations could be given names and privileges, but these were put on "like a necklace", not displacing the legitimate occupants.

The boundaries between the hunting grounds of different nations and villages were geographic: watersheds and rivers were likely the most frequent, since they were both logical and easily recognized. Although the boundaries were known, and were provided for in the law, the peace created by the Great Law did away with conflicts over hunting for food:

> We shall only have one dish (or bowl) in which will be placed one beaver's tail, and we shall all have coequal right to it, and there shall be no knife in it, for if there be a knife in it, there would be danger that it might cut some one and blood would thereby be shed. This one dish or bowl signified that they will make their hunting grounds one common tract and all have a coequal right to hunt in it. The knife being prohibited from being placed into the dish or bowl signifies that all danger would be removed from shedding blood by the people of these different nations of the Confederacy caused by differences of the right of these hunting grounds.[46]

The dish with one spoon referred to in this provision of the Great Law appears often in councils between the Haudenosaunee and other indigenous nations, as well as in relations with Europeans. It refers to the hunting grounds. As the dish of beaver tail stew is shared between the chiefs, the land is like a bowl to feed all the people. The wampum belt preserving this principle is white, with a round purple area as the bowl.

The concept of the dish with one spoon spread gradually, as the Great White Roots of Peace spread to other nations. After the coming of the Great Law, a Mohawk could hunt not only in the hunting grounds of his village and nation, but also in the territory of the other nations of the Confederacy. Even though he would acknowledge, for example, that going west of a certain watershed meant

passing from 'Mohawk territory' into 'Oneida territory', he would still have the right to hunt for food in peace. As treaties enshrining that principle were made with other nations, hunters would be able to use ever larger territories.

Territories were delimited by the names of mountains, rivers and landmarks and the location of historical events. Elders like Chief William George, speaking at Stoney Creek, B.C., from the vantage point of 86 years' experience, still maintains intimate and authoritative knowledge of the features of his nation's land, the wealth it encompasses, and the names whose bearers were entitled to benefit from the lands:

> When the people made their own living in their own areas, their own housing in their own village, that is the way I was brought up. The hunting, all the game and fishing around the area there, we looked at that just like our money. It was our money, because that is our food, that is where we were brought up, on our food. I know how the Indians survived in that area there.
>
> I know all the names of the mountains and the rivers, like Ominiga where I was born, the next river we call the Moselinka river. The next one was Mayselinka. The next one was Ingenika and I come from that area there. The Sekani nation was biggest nation a long time ago. The way we were raised around that area is we got all the names of the mountains and the lakes and we had a lot of Indian trails all over in the area there and we got all different kinds of game and fish, what we survived on. I know all our chiefs around that area there, like Mitsegala and Kotada, Watsheshta and Mitsagali. My name in that area is Derihas. That is my name, the one who is talking to you right now.
>
> Chief William George
> Sekani Nation
> Stoney Creek, British Columbia, 18 June 1992

Brenda Gedeon Miller of the Listuguj Mi'gmaq First Nation, speaking at our hearings in Restigouche, Quebec, provided details on the seasonal movement of the Mi'kmaq community between the mouth of the Restigouche River, where they harvested fish and other seafood and plants and medicines in milder seasons, and the deep forest along the Restigouche River system and the Notre Dame Mountains, where they moved in winter for better shelter and proximity to fuel and fur-bearing animals. The winter sites to be occupied by various families would have been predetermined at council meetings in the summer and early fall months. Miller emphasized that the notions that the Mi'kmaq wandered from place to place and that their 'home' could be defined as a single restricted reserve site were contradicted by their history and patterns of mobility, which persisted until the 1950s, when enforcement of game laws and introduction of massive wood cutting interfered.

The economic relations embedded in traditional cultures emphasized conservation of renewable resources, limiting harvesting on the basis of need, and distributing resources equitably within the community, normally through family networks. Since families and clans owned rights to resources, and since everyone was connected in a family, no one was destitute and no one was unemployed.[47] If hardship struck because of bad weather or fluctuations in the supply of animals, everyone suffered equally. Even on the Pacific coast, where a wealth of resources was available and accumulation of surplus was a feature of the culture, the obligation to show generosity dictated that surpluses were accumulated in order to be given away.

Along with a spirit of generosity, a spirit of self-reliance was highly valued. Elders such as Juliette Duncan, an 88-year-old who addressed the Commission at Big Trout Lake, exemplify the will and the competence that continue to garner the highest respect in Aboriginal communities:

> Our great-grandfathers were not carried or looked after by any outside government. The power came from within. That is how we survived. That is what was taught to us and this is what we know from what we learn from the past for those of us that still exist....I still remember everything that my grandfathers and grandmothers taught me. I still know how to trap even today. I can still kill rabbit for my own food. I still have a gun. I still carry my gun around everyday. I go hunting occasionally to at least get a partridge for a meal.
>
> I came here with this delegation and travelled with ten people, and I still go out skidooing, go into the bush and make a campfire for myself and do a little bit of trapping and hunting. I had trapped a few fur-bearing animals but I had to come here and I didn't skin them yet. From what I learned I still practise everything that I learned back then.
>
> Elder Juliette Duncan
> Muskrat Dam First Nation
> Big Trout Lake, Ontario, 4 December 1992

11. Culture and Government

The forms of leadership, decision making and government practised among Aboriginal people varied widely, but as in their economies, it is possible to discern the influence of fundamental values flowing from their relationship with the land and the spiritual order.

First, there was a strong ethic of personal responsibility, fostered by child-rearing practices that taught children from an early age to think for themselves even while they acted to enhance the common good. The personal autonomy

necessary to discover and exercise one's unique gifts and maintain balance in a dynamic, spiritually influenced universe was not compatible with bowing to authority.

Second, because everyone had equal access to the necessities of life and a strong ethic of sharing prevailed, no one could control essential resources as a means of exercising power over others. Thus, even where more formal and permanent structures of leadership and government prevailed, leaders led by influence rather than authority.

Within small, mobile hunting groups, leadership was determined by the situation, on the basis of known competence. This is illustrated in the recollections of Paulus Maggo, the Labrador Inuk quoted earlier:

> I didn't mind telling or showing those with whom I was well acquainted or those with whom I regularly hunted how to build an igloo. I was by no means clever at everything about hunting inland when travelling by dog team was the only means of getting into the country.
>
> I'll say though that when the weather got stormy or when we had to travel at night, they would ask for my assistance when they no longer knew what to do or where to go. They would come to me because I was familiar with that part of the country.
>
> I knew the land well so I didn't mind taking charge of a hunting party and did it to the best of my ability. I was always able to take them back to home base in the dark or through stormy weather as long as it didn't get too stormy, and we were able to keep on moving as long as I could see the stars at night. I've even taken hunters back through fog and drizzle when nothing could be seen. Although I was not the most clever hunter, they'd always pick me as leader. I guess it was because I had the most experience travelling in the country.[48]

Maggo also described the passing on of leadership from an older hunter who was accustomed to taking charge. After many trips together the older man started asking Maggo questions about where to go, where and when to stop. Maggo comments, "Me? Instructing the one who once was always my leader?" Anthropologists have commented on the modesty he displays as a common trait among members of hunting bands, where choosing leaders is a very informal and fluid process. Among Inuit, some accounts suggest that a camp leader, once acknowledged as the decision maker, would not be challenged. Other accounts emphasize that the leader maintained his position by consulting and gaining agreement before making a decision.

Paulus Maggo's experience is instructive in understanding how harmony was maintained. His leadership abilities, developed on the land, were subsequently recognized in his selection as leader of commercial sealing and fishing camps.

Referring to the expectations about how members should treat each other, Maggo said, "Anyone who did not respect the rule at my sealing or fishing camps was encouraged to conform, and anyone not willing to do so was encouraged to leave."

Chiefs were selected in various ways. In a paper presented at the Commission's round table on justice, James Dumont described the role of Anishnabe leaders selected by their clan members in deliberations at seasonal councils. Since marriage partners had to be selected from outside the clan, this meant that every family was connected to several clans and had multiple avenues to contribute to decision making.

Among the Iroquois, elder women, or matriarchs, were responsible for consulting within their clans on the selection of chiefs. The candidate's character from childhood, in family settings and among his peers, was examined thoroughly. Nominations were then put before councils of the nations or the Confederacy, involving both men and women, and everyone present was invited to declare whether they knew of any impediments to investing the nominee with responsibility for the welfare of the people. As with the Tsimshian, described in Chapter 4, every member of the nation had an obligation to assure the integrity of persons put forward as leaders and the validity of the representations made in support of those nominations. Although the appointments were for life, the Iroquois women who nominated the chiefs had the power to remove them from office if they failed to fulfil the responsibilities of their positions and repeatedly neglected the warnings of their kin.

Among the Tsimshian and other nations of the west coast, chiefly names and rights were passed on in clans, but the selection of successors was not determined solely by birth. The fulfilment of chiefly responsibilities required economic skills to accumulate goods for distribution and the ability to influence clan members and fellow chiefs. Accession to leadership was thus a result of both family origins and personal accomplishment.

At our Whitehorse hearings, Johnny Smith explained how the clans functioned to protect their members, settle disputes and discipline the behaviour of members. If a member of the Crow clan offended a member of the Wolf clan, the latter would ask the Crows what they were going to do to make reparation. The clan of the offender would contribute money to make a payment to settle the matter. All of this history would then come into play when decisions were being made about clan leadership – whether a candidate could work with people, whether he could inspire loyalty, whether someone would stand in his place if he should die. Smith was clear about the advantages of the "Indian way to go ahead":

> So, like here, they talk together and make the law and then they agree with it and go ahead. So that's the way it is when you appoint somebody by the Indian way, not vote like the white man. If you vote like the white man you vote in the wrong people, you don't get the right

> people. So if you go the Indian way you are going to see who is the best, who can do the work and you know what kind of life he has. You know what he is; he's a good Indian and he's got a good council and a good chief. Then the elders will talk about it and a bunch of elders have a big meeting about it, and they finally decide to appoint you. You are going to look after us, you are going to stand for us, you are going to die for us. So that's how the chief is appointed.
>
> Johnny Smith
> Tlingit Nation
> Whitehorse, Yukon, 18 November 1992

Among the nations of the plains, including the Blackfoot and the Métis, leaders were selected entirely for their personal qualities. Some of the most charismatic leaders of the past came from these nations: Riel, Crowfoot, Sitting Bull, Big Bear. In traditional times, spiritual power was thought to go hand in hand with success in war, both of which were requirements for instilling confidence and loyalty in communities of several hundred people. Skill in oratory was another requirement. As we saw in the description of Blackfoot culture in Chapter 4, responsibility for educating younger generations to their role in society, maintaining order in the camp, managing the buffalo hunt, and engaging with enemies was distributed among clans and societies, which crossed kinship lines. It was not unusual for young men to chafe under the leadership of more senior men, but the ultimate solution was for the dissident to form a separate community with others of like mind, rather than for the recognized leader to enforce submission. Those who lived within a community were expected to conform to the rules of sharing and maintaining harmonious relationships.

Just as individuals in a community exercised personal autonomy within the framework of community ethics, communities exercised considerable autonomy within the larger networks of what were termed tribes or nations in the vocabulary of colonial society. Nations were demarcated on the basis of language, or dialect, and territory. Relationships within the nation were usually knit together by clan membership, which went beyond immediate ties of blood and marriage. Clan members were linked by common origins affirmed by stories stretching into the mythical past and reinforced by legends of the exploits of remembered forebears.

The size of communities varied. Seasonal hunting groups among Inuit or Anishnabe typically numbered between fifteen and twenty members and were made up of a single family or hunting partnerships linking more than one family. Summer was a time when small, mobile groups came together around river mouths or favourite lakes and hunting grounds to socialize and contract marriages, to participate in ceremonies and councils. Nations of the northwest coast, many of which moved to fishing camps in the summer, took up residence in their permanent villages during the winter months, the time when elaborate cycles of dance ceremonials were performed. In regions where there was a rich

and stable food supply, such as the whaling villages of the Mackenzie Inuit or the agricultural villages of the Iroquois, permanent villages and towns of 300 to 1,000 inhabitants were maintained.

Within a region several nations might carry on trade and friendly relations. The Tlingit, the Tsimshian and the Kwakwa̲ ka̲'wa̲kw of the northwest coast had distinct identities and territories but they traded, exchanged cultural practices and intermarried. Each of the seven branches of the Mi'kmaq managed its own community life and territories and selected local leaders, or *Sagimaw*, who came together to confer on business affecting the whole Mi'kmaq nation.

Oral histories abound with stories of conflicts at the boundaries between distinct nations: Inuit and Dene of the barren grounds west of Hudson Bay, the Dakota (Sioux) and the Anishnabe in the Great Lakes region, the Blackfoot and the Cree of the plains, the Huron and the Five Nations, who shared Iroquoian roots.

Alongside these histories of border conflict are numerous stories of peace treaties and trade alliances that permitted nations to extend the range of goods to which they regularly had access and facilitated the diffusion of new technology. Evidence of these transactions is found in excavations of ancient settlements of every region, as well as in the oral histories of various nations.

Sometimes relations between nations went beyond informal agreements to respect each other's territory or treaties of friendship sealed with sacred ceremony. Confederacies linking adjacent nations were formed in the east among the Mi'kmaq, Maliseet, Passamaquoddy and Penobscot nations and, at an earlier time, between the Abenakis and Kennebec nations;[49] among the Five, later Six Nations of the Iroquois; and, in the west, among the Blackfoot, Peigan and Blood nations of the plains (discussed in Chapter 4). The purpose of organizing in confederacies was to maintain peaceful relations among neighbouring nations and to protect their territories from intrusion by outsiders. Confederate councils did not regulate the internal affairs of the nations. Although confederacy councils might appoint head chiefs as among the Blackfoot, or have traditions assigning protocol responsibilities to particular title holders, as among the Five Nations, these confederacy chiefs had no enforceable authority over nation chiefs or clan or village leaders.

12. Charting the Future with Insights From the Past

> My father always told me that when I travelled by dog team to always look back and study where I had come from before losing sight of the area. Knowing where you came from will ensure that you can get back to known and familiar grounds.[50]

> It says in that treaty, that this relationship will hold firm until the sun will stop shining, the waters will stop flowing and the grass will stop growing. In our minds, in the minds of the people, if you look outside, the sun is just as strong today as it was when that treaty was made and the grass is just as green as it was then. Unfortunately, the water is not as clean, but it still flows. So in our minds, if we are looking towards a future where we can have peace in this land, the mechanism is there, and that is the Two Row Wampum and those relationships of friendship.
>
> Charlie Patton
> Mohawk Trail Longhouse
> Kahnawake, Quebec, 6 May 1993

> When I hear people say 'We've lost this; we've lost that', I do not believe that. We have not lost anything, we have just forgotten....we are coming out of a big sleep....We are waking up, and it's a beautiful thing, to wake up and see we are alive, we are still here.
>
> Elder Vern Harper
> Toronto, Ontario
> 25 June 1992

When Aboriginal people talk about returning to their traditions, the response of non-Aboriginal people is often incredulous, because they associate First Nations, Inuit and Métis cultures with buckskin, igloos and buffalo. It is not well known that being Aboriginal is a matter of mind, that the stories that teach Aboriginal people how to live with each other and with creation – how to be fully human – are loaded with symbols that transcend time and the particular circumstances in which they originated.

Even some Aboriginal people have difficulty comprehending the symbolism in Aboriginal teachings. Jake Thomas told of a conversation with an Iroquois person about the eagle that sits atop the great white pine tree, the central symbol of the Iroquois Confederacy, ready to sound the alarm when danger approaches that might threaten the peace. The individual said:

> "I've been waiting all these years. Since I was young I've been hearing about that. I've been wondering when that eagle is going to howl. I never heard it yet."
>
> I said, "You must have a different understanding. That tree where the eagle sits, that's symbolic."
>
> Chief Jacob Thomas
> Iroquois Confederacy
> Akwesasne, Ontario, 3 May 1993

In the present circumstances of Aboriginal people in Canada, numerous impediments stand in the way of acquiring traditional wisdom and practising traditional ways. Central among these is the interruption of relationship and communication that has resulted from disruption of family relationships and loss of language.

Laws that, in the past, outlawed ceremonies and, in the present, restrict possession of animal parts needed for ceremonies are other barriers. The deterioration of the environment, which provides medicines, and the appropriation of sacred sites for alternative uses, add to the difficulties of practising certain aspects of traditional cultures. Nevertheless, Aboriginal people are finding their way back. We present here some stories of individuals who have re-established connection with their cultures.

Sylvia Maracle is a Mohawk woman whose mother died in childbirth when Sylvia was six. She was placed in foster care and maintained contact with her grandparents and other relatives. As a youth she began seeking a better understanding of where she came from. In a published interview she speaks of her first encounter, in her late teens, with an elder Iroquois woman on the Six Nations reserve at Brantford, to whom her grandparents sent her with a gift of tobacco.

The old woman was apparently expecting her, offered her tea and burned the offering of tobacco in the stove. She agreed to help as best she could, but instead of sitting down and talking, she set the young woman to moving a woodpile. When the task was finished she had Sylvia move it again. By the end of the weekend Sylvia was tired and disappointed. When the old woman asked why she was upset, Sylvia blurted out, "I came here to learn who I was, and all I've been is a slave all weekend, moving your wood around." Sylvia describes the outcome this way:

> The old woman reached across the table, took my hand and said: "You have had the most magnificent teachers in the world. The earth has watched everything that you have done. The wind has come to check on you and what's going on. The sun has shone and mixed his powers with yours so that there can be life. The birds have serenaded you and other animals, some so very small, have come around as well...".
>
> She talked so eloquently, and made me feel so special that I felt awful for complaining that she hadn't paid attention to me. She went on: "All those creatures are so much wiser than I am. I only know a little bit, but if you want to come back and spend time I'll teach you the little that I know." And she did.[51]

Sylvia has applied the teachings, which she began to learn in earnest at that time, in her work as a manager, spokesperson and negotiator on behalf of Aboriginal people living in urban areas.

Edna Manitowabi, an Anishnabe (Ojibwa) woman, now a ceremonialist among her people and a teacher of language at Trent University, tells of the power of ceremonies to heal the trauma of past abuse:

> The first time I heard that big drum, it was like coaxing your heart, because it sounded like your own heartbeat, and it felt so good. I just wanted to dance....
>
> I had taken some Laurentian University students to Marquette, Michigan in 1974 to attend a Native Awareness seminar but when we arrived we found that we had the dates confused and the conference was over. On a bulletin board I saw a little card with a picture of a water drum[52] announcing that Ojibway ceremonies were being held at Irons, which was a two-hour drive south of Marquette. There was a strong pull, and even on the way there you just felt something, like you were on the threshold of something.
>
> That night when we got there, I heard the sound of the water drum, the Little Boy water drum. It wasn't so much the heartbeat, it was more release. It was like that Little Boy water drum made me cry and cry and I didn't know why I was crying. It took me back to my dream experience,[53] when I just sobbed and sobbed. Every time that drum sounded, tears would come, and I would go out of control. I think it was years and years of stuff that I held in, all the sadness, the loneliness, even the rage was just coming out. Whenever I heard the sound of the water drum, there was a feeling that I had come home.
>
> After that I started to listen to those teachings that Little Boy gave, and things really started to change for me. All the things about womanhood, Anishinabe way, started to emerge then.
>
> After that I sought out the Grandmothers, the elders. Grandmothers were very strong. They were waiting for someone to come and ask: What about this? I found those old women and they began to talk. It was like I was a little girl going to Grandma. In their sharing of their knowledge I began to feel life. Their words nurtured and nourished my spirit.
>
> An old man said to me once: 'You're a part of all of life, all of Creation. You're connected to all things. You're connected to all people.' After the experience in Michigan I started to fast, to meditate on those things, to find out about Creation, about the Earth.[54]

Frank Brown, a young Heiltsuk man from Bella Bella, B.C., has collaborated with the National Film Board and others in the First Nations community to produce a video documentary of his emergence from a violent and self-destructive phase of his life, through re-connection with his culture.[55] His father

was an alcoholic who died when Frank was eight years old. He became rebellious, and by the time he reached his teen years he was the leader of a violent gang. The most severe in a series of offences was administering a beating to a bootlegger, inflicting injuries that required hospitalization.

Frank's mother had placed him in the care of his uncle, hoping that a man's influence would help to control his behaviour, and the uncle interceded before the court when the assault charge was being heard. The uncle recommended that instead of being sent again to an institution for young offenders, a traditional therapy should be tried. Frank was placed alone on an island that is part of Heiltsuk territory and was left there for eight months, isolated from human contact, though his family checked periodically to ensure he had enough to eat.

Frank describes himself as 'out of control', hiding his hurt behind an attitude that he didn't care about anything. When he was left on his own, he no longer had people and rules to push against. On the beach and in the forest and in the dark of his tent he finally confronted his own fears and met visible manifestations of the angry, anti-social spirit that had taken over his life. He came to understand that his culture offered the means of taming such forces.

When he came out of exile he was ready to re-connect with his family and his culture. The video documents the potlatch he gave, with his family's help, to wipe away all the pain and the shame of the past and confirm that he was making a new start. The video was made in 1993, when Frank's transformation had already been a reality for some years. He is a youth counsellor and is recognized in his own community and beyond as a role model.

Sylvia Maracle is introducing traditional values as core elements of organizational life in an urban setting; Edna Manitowabi is teaching university students from many Aboriginal traditions and non-Aboriginal backgrounds how to see the world through the lens of Ojibwa language; Frank Brown is searching for ways to help young people establish a firm identity and membership in the human community without going through the alienation he experienced.

Many of the stories of reclaiming culture are about personal transformation. But Aboriginal people are also questioning how to apply these values in community and public life. Mark Wedge of the Yukon Indian Development Corporation shared his reflections with commissioners at Whitehorse:

> One of the questions we had regarding the mandate of the organization that I work with is: How do we integrate these traditional values into the contemporary way of doing things, contemporary business components? I think that is the challenge that we have been trying to work with: How do we gain this knowledge and wisdom from the Elders, from the people, and try to incorporate it in a manner that is understandable to European cultures or to the western cultures?

> ...we have always looked at renewable resources or animals and plants as our livelihood, and the question is: How do we share that livelihood? Often times it is done through Elders saying which one should get which part of the meat... Coming from the European system, what they did is they shared their harvest initially...and then it moves into a tax. As we move into a money society it moves into a tax structure.
>
> ...I think it is up to the individual communities and peoples to start defining how they are going to share.
>
> Mark Wedge
> Yukon Indian Development Corporation
> Whitehorse, Yukon, 18 November 1992

Don Sax, an Anglican priest who has spent nine years in the north, emphasized that the particularity of local communities has to be considered in applying cultural insights to practical problems. He identified with the community effort to find "our way":

> The recovery of culture is not so much...a matter of trying to recover the past, but trying to pick up the profound insights from the past and apply them to the future. That is really the way of perceiving reality and responding to the problems of life rather than making snowshoes or something.
>
> ...[T]he onus at this stage in history is on the local community. There has to be a concerted effort by local communities to define their own vision of the future. That vision has got to be defined on a clear awareness of what our way is. There has to be a clear definition of the piece of geography that we are talking about. There has to be a profound understanding of the ecological systems currently operating in that homeland.
>
> Then, out of that the community needs to begin to craft the human economic, political and cultural systems that are consistent with or even enhancing to the ecological systems that are already there.
>
> Reverend Don Sax
> Old Crow, Yukon
> 17 November 1992

Speaking of economic futures, Sax did not discount the need to come together in larger groupings to achieve common goals. In fact he suggested that for the Gwich'in in the northern Yukon, collective initiatives that cross the boundaries of the Northwest Territories, the Yukon and Alaska make sense.

In later volumes of our report we discuss in more detail how traditional ethics of social relations, economics, government and relationship with the land

are being incorporated in Aboriginal visions of the future. We will return to the conception of natural law that still infuses the cultures and priorities of Aboriginal peoples. The values that guide many Aboriginal people in their relations with one another and with non-Aboriginal institutions were summed up in a presentation by Oren Lyons:

> Indians are spiritual, religious people, always have been and, hopefully, always will be, because that is the fundamental law. That's the main law of survival. That is the law of regeneration. Any law that you make you must bind to that spiritual law. If you don't, you're not going to make it, because the spiritual law, the law of reality that is outside here, that says you must drink water to live, that you must eat to survive, that you must build shelter for your children, that you must plant, you must harvest, you must work with the seasons – that law does not change. That's the major law that governs all life on this earth. If nations don't make their law accordingly, they will fail eventually because no human being is capable of changing that particular law.
>
> Oren Lyons
> Akwesasne, Ontario
> 3 May 1993

As discussed in Chapter 4, Aboriginal nations brought to their negotiations with colonial powers a long history of national and international diplomacy and well-established protocols for sealing international accords. Differences in world view, culture and language between Aboriginal and colonial parties to those accords have contributed to misunderstandings and discord in relations between Aboriginal and non-Aboriginal people. In the Commission's view, creating more harmonious relations must start with fuller information about cultures, where they diverge and where they share common values. The foregoing discussion of Aboriginal cultures, although brief and selective, may signal to readers the vast and exciting possibilities that exist for exploring Aboriginal history and world view.

Many Aboriginal people came forward in our hearings to take us back in time with their stories of creation. They shared recollections of their lives and the teachings they received from their grandfathers and grandmothers. Elders in particular declared their desire to pass on the wisdom of their traditions, not only to their own youth but to the others they share life with on Turtle Island.

Commissioners had the benefit of meeting and listening to Aboriginal elders and traditionalists. We participated in feasts and ceremonies. We were drawn, however briefly, into the circle of relations where material and spiritual gifts are shared. We experienced the vitality and power of the oral tradition, communicated by people like Mary Lou Iahtail, a Cree educator in Moose Factory, Ontario, who said, "I have no written speech. Everything that I said I have been carrying in my heart, because I have seen it. I have experienced it."

Notes

1. Chief Dan George and Helmut Hirnschall, *My Heart Soars* (Saanichton, B.C.: Hancock House Publishers, Ltd., 1974), p. 60.

2. We wish to acknowledge and thank all those who contributed to our education on cultural matters. We urge readers to explore for themselves the wealth of experience and wisdom contained in the transcripts of our hearings, a sampling of which is presented in this chapter (identified with the name of the presenter and the date and location of the hearing). For more information about transcripts and other Commission publications, see *A Note About Sources*, at the beginning of this volume.

3. Skanu'u (Ardythe Wilson) in Don Monet, *Colonialism on Trial: The Gitksan and Wet'suwet'en Sovereignty Case and the Struggle for Indigenous Land Rights* (Gabriola Island, B.C.: New Society Publishers, 1992), p. 19.

4. The interrelatedness of culture, spirituality and ethics is discussed by James Dumont, professor of Aboriginal studies at Laurentian University and apprentice in the Anishinabe Midewiwin Society, and by Associate Chief Judge Murray Sinclair, Co-Chair of the Aboriginal Justice Inquiry of Manitoba, in various publications. See in particular James Dumont, "Justice and Aboriginal People", in Royal Commission on Aboriginal Peoples [RCAP], *Aboriginal Peoples and the Justice System: Report of the National Round Table on Aboriginal Justice Issues* (Ottawa: Supply and Services, 1993), pp. 42-85; and Murray Sinclair, "Aboriginal Peoples and Euro-Canadians: Two World Views", in *Aboriginal Self-Government in Canada: Current Trends and Issues*, ed. John H. Hylton (Saskatoon: Purich Publishing, 1984), pp. 19-33.

5. Kathleen E. Absolon and Anthony R. Winchester, "Cultural Identity for Urban Aboriginal People: Learning Circles Synthesis Report", research study prepared for the Royal Commission on Aboriginal Peoples [RCAP] (1994). For information about research studies prepared for RCAP, see *A Note About Sources* at the beginning of this volume.

6. Carol Brice-Bennett, "Labrador Inuit Life Histories", research study prepared for RCAP (1994).

7. Leroy Little Bear, "What's Einstein Got to Do With It?", in *Continuing Poundmaker and Riel's Quest, Presentations Made at a Conference on Aboriginal Peoples and Justice*, comp. Richard Gosse, James Youngblood Henderson, and Roger Carter (Saskatoon: Purich Publishing, 1994), p. 70.

8. A. Irving Hallowell, "Ojibwa Ontology, Behavior, and World View", in *Teachings from the American Earth, Indian Religion and Philosophy*, ed. Dennis Tedlock and Barbara Tedlock (New York: Liveright, 1975), p. 147.

9. See, for example, Andrew Chapeskie, "Land, Landscape and Culturescape: Aboriginal Relationships to Land and the Co-Management of Natural Resources", research study prepared for RCAP (1995).

10. Barry Came, "Fighting for the Land", *Maclean's* 108/9 (27 February 1995), p. 16.

11. C.C. Brant, "Native Ethics and Rules of Behaviour", *Canadian Journal of Psychiatry* 35/6 (August 1990), pp. 534-547.

12. See Knud Rasmussen, "A Shaman's Journey to the Sea Spirit Takánakapsâluk", in *Intellectual Culture of the Iglulik Eskimos*, volume 7, no. 1 of the *Report of the Fifth Thule Expedition, 1921-24* (Copenhagen: Gyldendalske Boghandel, Nordisk Forlag, 1929); reprinted in Tedlock and Tedlock, *Teachings from the American Earth* (cited in note 8), pp. 13-19.

13. Monet, *Colonialism on Trial* (cited in note 13), p. 89.

14. Jerome S. Bruner, "Myth and Identity", in *On Knowing, Essays for the Left Hand* (Cambridge, Mass.: Belknap Press of Harvard University Press, 1964), p. 36.

15. Olive Patricia Dickason, *Canada's First Nations: A History of Founding Peoples From Earliest Times* (Toronto: McClelland & Stewart Inc., 1992), pp. 80-81.

16. For examples of ethical systems received by human forebears from spiritual sources, see Dumont, "Justice and Aboriginal People" (cited in note 4), p. 76ff; Monet, *Colonialism on Trial* (cited in note 3), p. 181ff; and Paul A.W. Wallace, *White Roots of Peace, The Iroquois Book of Life* (Santa Fe, New Mexico: Clear Light Publishers, 1994).

17. Asen Balikci, *The Netsilik Eskimo* (Garden City, N.Y.: The Natural History Press, 1970), p. 199: "Personal names were thought among the Netsilik to possess a personality of their own characterized by great power and distinct ability to protect the name bearer from any misfortune." One person might carry several names, which were acquired in a ritual manner.

18. Knud Rasmussen, *The Netsilik Eskimos, Social Life and Spiritual Culture*, volume 8, no. 1-2 of the *Report of the Fifth Thule Expedition, 1921-24* (Copenhagen: Gyldendalske Boghandel, Nordisk Forlag, 1931), pp. 224-25.

19. Many First Nations people call North America 'Turtle Island', referring to legends that the land was first formed on the back of a giant turtle.

20. Olive Patricia Dickason, "From 'One Nation' in the Northeast to 'New Nation' in the Northwest: A look at the emergence of the Métis", in *The New Peoples: Being and Becoming Métis in North America*, ed. Jacqueline Peterson and Jennifer S.H. Brown (Winnipeg: University of Manitoba Press, 1985), pp. 19-20 and following. Dickason cites sources in the fields of history and biology, some of which contend that intermarriage between First Nations women and Europeans was almost nonexistent in eastern Canada and others that argue that it was extensive and might be traced in as many as 40 per cent of families in some regions. See Jacques Rousseau, interview published in "Perspectives", *La Presse*, 23 May 1970, quoted in Donald B. Smith, *Le 'Sauvage' pendant la période héroïque de la Nouvelle-France* (Montreal: Hurtubise HMH, 1979), p. 116.

21. See Dickason, "From 'One Nation'", and John E. Foster, "Some questions and perspectives on the problem of Métis roots", in Peterson and Brown, *The New Peoples*, p. 77 and following.

22. Foster, "Some questions and perspectives", p. 75.

23. For a fuller description of the Labrador Métis and other Métis groups, see Volume 4, Chapter 5, and Chapter 6 in this volume.

24. Labrador Metis Association, submission to RCAP, 1 September 1993, p. 5.

25. Foster, "Some questions and perspectives" (cited in note 21), p. 84, points out that "in spite of these difficulties a few works, particularly Van Kirk's *Many Tender Ties*, provide insights into the world of women associated with the mixed-blood populations that emerged as métis." See Sylvia Van Kirk, *Many Tender Ties: Women in Fur-Trade Society, 1670-1870* (Winnipeg: Watson and Dwyer Publishing Ltd., 1980).

26. *The Collected Writings of Louis Riel/Les écrits complets de Louis Riel*, ed. George F.G. Stanley (Edmonton: University of Alberta Press, 1985), volume 3 (5 June 1884-16 November 1885), ed. Thomas Flanagan, pp. 278-279.

27. Pauktuutit, *The Inuit Way, A Guide to Inuit Culture* (Ottawa: n.d.), pp. 19, 21.

28. Monet, *Colonialism on Trial* (cited in note 3), p. 181.

29. Dumont uses this term in "Journey to Daylight Land: Through Ojibwa Eyes", *Laurentian University Review* 8/2 (1976). A detailed description of a prayer ceremony for seeking spiritual awareness or 'vision' can be found in Joseph Epes Brown, *The Sacred Pipe: Black Elk's Account of the Seven Rites of the Oglala Sioux* (Norman, Oklahoma: University of Oklahoma Press, 1953).

30. Balikci, *The Netsilik Eskimo* (cited in note 17), p. 148.

31. F.W. Peacock, *Labrador Inuit Lore and Legend* (St. John's, Newfoundland: Jesperson Press, 1981), p. 16.

32. "Dancing With Chaos: An interview with Douglas Cardinal", *Intervox* 8 (1989/90), pp. 27-31, 44-47; reprinted by permission in Dennis H. McPherson and J. Douglas Rabb, *Indian from the Inside: A Study in Ethno-Metaphysics*, Occasional Paper #14 (Thunder Bay: Centre for Northern Studies, Lakehead University, 1993).

33. For additional examples of the continuing influence of traditional modes of teaching, see Volume 4, Chapter 3.

34. Hugh A. Dempsey, *Crowfoot: Chief of the Blackfeet* (Halifax: Goodread Biographies, 1988), pp. 213-214.

35. Basil H. Johnston, "The Ceremony of Peace Pipe Smoking", *Tawow* 6/1 (1978).

36. Johnston, "The Ceremony of Peace Pipe Smoking", p. 23. See also Brown, *The Sacred Pipe* (cited in note 29).

37. The following information on inuksuit is extracted from Luke Suluk, "Inuksuit", *Inuktitut* 76 (Inuit Tapirisat of Canada, 1993), pp. 10-19.

38. Calvin Racette, *Flags of the Métis* (Regina: Gabriel Dumont Institute of Native Studies and Applied Research, 1987), p. 6.

39. Ted J. Brasser, "In Search of Métis Art", in Peterson and Brown, *The New Peoples* (cited in note 20).

40. Audreen Hourie, "The Métis Sash", fact sheet (Manitoba Metis Federation, 1992).

41. Absolon and Winchester, "Cultural Identity for Urban Aboriginal People" (cited in note 5).

42. Manitoba, Public Inquiry into the Administration of Justice and Aboriginal People, *Report of the Aboriginal Justice Inquiry of Manitoba, Volume 1: The Justice System and Aboriginal People* (Winnipeg: Queen's Printer, 1991); and Rupert A. Ross, *Dancing With a Ghost: Exploring Indian Reality* (Markham, Ontario: Octopus Publishing Group, 1992).

43. Brant, "Native Ethics" (cited in note 11), p. 535.

44. Brant, "Native Ethics", p. 538.

45. Chief Jacob (Jake) Thomas, transcripts of the hearings of the Royal Commission on Aboriginal Peoples [hereafter RCAP transcripts], Akwesasne, Ontario, 3 May 1993.

46. Paul Williams and Curtis Nelson, "Kaswentha", research study prepared for RCAP (1995). Williams and Nelson point out that there is no 'official' version of the Great Law of Peace of the Haudenosaunee. They used several sources for their study. This quotation comes from one compiled by a committee of chiefs – including Skaniadariio (John A. Gibson), Kanongweya (Jacob Johnson) and Deyonhegwen (John William Elliott) – at the Grand River Territory in 1907 and published through the efforts of Gawasowane (Arthur C. Parker) in 1916, p. 103.

47. Northwest coast cultures were known to keep slaves, usually acquired as captives in war, who did not enjoy family status, although they were part of households. See Philip Drucker, *Indians of the Northwest Coast* (Garden City, N.Y.: The Natural History Press, 1963), pp. 130-131.

48. Paulus Maggo, quoted in Brice-Bennett, "Labrador Inuit Life Histories" (cited in note 6).

49. For details, see Brenda Gedeon Miller, "Listuguj Mi'gmaq Government", RCAP transcripts, Restigouche, Quebec, 17 June 1993.

50. Paulus Maggo, quoted in Brice-Bennett, "Labrador Inuit Life Histories" (cited in note 6).

51. Sylvia Maracle, quoted in Marlene Brant Castellano and Janice Hill, "First Nations Women: Reclaiming Our Responsibilities", in *A Diversity of Women: Ontario, 1945-1980*, ed. Joy Parr (Toronto: University of Toronto Press, 1995), p. 241.

52. The water drum is a small, hand-held drum filled with water to modulate the sound. Edna refers to it as "The Little Boy" because in Anishnabe teaching it is associated with the child of prophecy who will call the people back to the wisdom of their grandfathers.

53. Earlier, Edna had spoken of a vision experienced during a near-death experience.

54. Edna Manitowabi, quoted in Castellano and Hill, "First Nations Women" (cited in note 51), pp. 240-241.

55. The video, "Voyage of Rediscovery" (National Film Board, 1993, order number C 9193 005), is part of a series entitled *First Nations, The Circle Unbroken* (order number 193C 9193 003 [four videos and a teacher's guide]).

16

The Principles of a Renewed Relationship

What is our vision for the future? Our thoughts are summed up in testimony we heard during our third round of public hearings:

> A story was told a long time ago... An old man told us that, we look at the future, what we would like to see? Four children came from those four directions: a white child from the north, a red child from the east, a yellow child from the south, and a black child from the west. They walked together and they peered into the mirror of life. They joined hands and, when they looked in there, all they saw was the Creator. That's all they saw. They saw no animosity; they saw no colour; they saw the Creator.
>
> Marvin Conner
> London, Ontario
> 12 May 1993[1]

This story has many levels of meaning and is open to a variety of interpretations. For us, it captures the essence of much we have experienced as commissioners. If we look to the future, what would we like to see? What is our vision? Very simply, we would like to see future generations coming together and forming stable, mutually beneficial relationships. This is what we draw from the story related by Marvin Conner.

To explain our interpretation, the children in the story represent the generations still to come – children yet unborn and their children after them. As shown by the four colours – white, red, yellow and black – these children are not just Aboriginal but come from all races and ethnic backgrounds. The children walk together and join hands; that is, despite their differing backgrounds, they come together and form relationships. Peering into the mirror of life, they reflect on what they have become and the relationships they have formed. They

see no animosity, they see no colour. Their relationships are balanced and equitable. Any differences in colour, ethnic background or way of life do not give rise to inequalities. In the mirror of life the children see the Creator. By their actions, they have in fact returned to the time of Creation, a time when social relationships were governed by basic principles ensuring fairness, equality and mutually beneficial relations among all the various peoples and cultures that make up humanity.

This vision of the future, a vision of a balanced relationship, has been a constant theme in our work as a Commission. It is symbolized by the Commission logo, chosen when we first began our work. The logo (Figure 16.1) represents the four divisions of humanity – in essence, all sectors of Canadian society – coming together to join hands, to establish a basic relationship. The circle they form represents their mutual willingness to join one another in finding ways to make their relationship more balanced and mutually beneficial. At the centre of the circle is a bear's claw. This represents the healing that must take place during this process. After so much misunderstanding, anger, alienation and division, the time has come to repair the fractures in relations between Aboriginal peoples and Canadian society. This healing will occur when the various components that make up Canadian society come together to embrace and affirm the fundamental principles that promote balanced and mutually beneficial co-existence.

In earlier chapters we rejected the idea that the past can simply be put aside and forgotten as we seek to build a new relationship. We said that what we should strive for instead is a *renewed* relationship.

FIGURE 16.1
The Commission's Logo



The logo was designed by Joseph Sagutch, an Ojibwa artist from Toronto, Ontario. It was chosen by the Commission from among 51 entries.

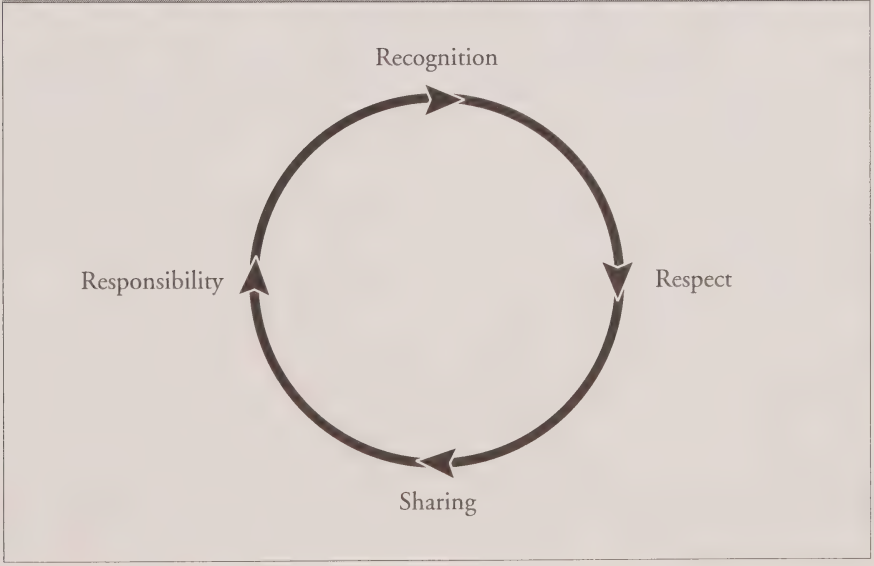
The concept of renewal expresses better the blend of historical sensitivity and creative initiative that should characterize future relations among Aboriginal and non-Aboriginal people in this country. It would be false and unjust to suggest that we can start entirely anew, false and unjust to attempt to wipe the slate clean, ignoring both the wrongs of the past and the rights flowing from our previous relationships and interactions. At the same time, we are hardly prisoners of the past, locked forever in the same historical postures, with the same attitudes, grievances, suspicions and prejudices. If the Aboriginal and non-Aboriginal people of Canada are not embarking on a journey entirely afresh, as strangers and neophytes, neither should we travel with all the accumulated baggage of the past on our shoulders, or assume that we know how to deal with all the challenges awaiting us along the road.

1. The Basic Principles

Our vision of a renewed relationship is based on four principles: mutual recognition, mutual respect, sharing and mutual responsibility. The principles are illustrated in Figure 16.2.

These principles define a process that can provide solutions to many of the difficulties afflicting relations among Aboriginal and non-Aboriginal peoples. Again, we have chosen a circle to represent this process because a circle has no

FIGURE 16.2
The Principles of a Renewed Relationship



beginning and no end; the process is continuous. As we move through the cycle represented by the four principles, a better understanding is gradually achieved. As the cycle is repeated, the meanings associated with each principle change subtly to reflect this deeper level of understanding. In other words, no single, all-encompassing definition can be assigned to any of these principles. They take on different meanings, depending on the stage we have reached in the process. When taken in sequence, the four principles form a complete whole, each playing an equal role in developing a balanced societal relationship. Relations that embody these principles are, in the broadest sense of the word, *partnerships.*

We spend a little time here talking about the four principles, always bearing in mind that their meaning is not static and unchanging but dynamic and responsive to change. Fuller treatment of their practical significance is provided in subsequent volumes of our report.

1.1 The First Principle: Mutual Recognition

We start with the principle of mutual recognition. This calls on non-Aboriginal Canadians to recognize that Aboriginal people are the original inhabitants and caretakers of this land and have distinctive rights and responsibilities that flow from that status. At the same time, it calls on Aboriginal people to accept that non-Aboriginal people are also of this land, by birth and by adoption, and have strong ties of affection and loyalty here. More broadly, mutual recognition means that Aboriginal and non-Aboriginal people acknowledge and relate to one another as equals, co-existing side by side and governing themselves according to their own laws and institutions. Mutual recognition thus has three major facets: equality, co-existence and self-government.

From the time of earliest contact, equality has been an important theme in relations between Aboriginal peoples and incoming Europeans, best symbolized in the ceremonies and speeches accompanying the negotiation of the early treaties and alliances. The same theme has been emphasized by contemporary Aboriginal leaders in seeking renewed nation-to-nation relationships, seats at the constitutional bargaining table, and modern treaties to resolve outstanding land and governmental issues. As these leaders have stressed, mere *formal* equality is an empty shell without the substance of enhanced economic power and prosperity.

The second aspect of recognition is co-existence. This evokes a relationship in which peoples live side by side, retaining rights inherited from the past and governing their own affairs in a confederation that values this form of political diversity. We do not mean to imply a relationship based on separation and isolation. For many years, Aboriginal and non-Aboriginal people have had close and extensive dealings with one another, dealings that have given rise to a complex mesh of interwoven strands. Nevertheless, no matter how interdependent the partners

become, the principle of recognition ensures that Aboriginal cultures and governments will continue. They will never again be the objects of public policies of assimilation and extinguishment. A commitment to preserve and enhance Aboriginal cultures and governments will entail a repudiation of certain strategies pursued in the past. It will involve a return to the relationships of co-existence implied in the early treaties and alliances. (See Chapters 3 to 6 in this volume and Volume 2, Chapter 2.)

Self-government is the third aspect of mutual recognition. There is no more basic principle in Aboriginal traditions than a people's right to govern itself according to its own laws and ways. This same principle is considered fundamental in the larger Canadian society and underpins the federal arrangements that characterize the Canadian constitution. In particular, it explains the division of powers between the federal and provincial orders of government and the basic principle of provincial autonomy. Of course, self-government, like any other right, is not absolute. It is subject to constraints in the form of norms protecting basic human rights. And, in a federal country, it is subject to principles that ensure harmonious interaction among the various orders of government making up the system.

What, then, is the justification for mutual recognition? Why should we affirm the goal of equal, co-existing, and self-governing peoples as basic to the relationship? The answer lies in political theory, international law and the historical evolution of Canada and its constitution. These matters are considered in greater detail in later volumes, but we touch on them briefly here.

Aboriginal peoples were the first inhabitants of this continent and the original custodians of its lands and resources. As a result of long-standing use and occupation, they have continuing rights in the land. They also hold the status of self-governing nations by virtue of their prior standing as fully independent, sovereign entities. This sovereignty was manifested originally in the international relations that Aboriginal nations maintained with one another. After contact, it was also recognized in practice by incoming European powers, as they competed among themselves to establish favourable alliances and trading relations with Aboriginal peoples.

The sovereignty of Aboriginal nations did not come to an end when colonial governments were established. As we saw earlier, self-governing Aboriginal nations continued to exist side by side with the infant colonies, although as time went on and the colonies grew in size and strength, Aboriginal peoples lived increasingly in their shadow. The self-governing status of Aboriginal peoples was reflected, for example, in the practices surrounding treaty making and in such notable British documents as the *Royal Proclamation of 1763*. As we explain elsewhere, although this status was greatly diminished by the encroachments of outside governments during the nineteenth and twentieth centuries, it managed to survive in an attenuated form.[2] We have come to the conclusion that the inherent right of self-government is one of the "existing Aboriginal and treaty rights"

recognized and affirmed by section 35 of the *Constitution Act, 1982*. Additional support for this conclusion is provided by emerging international principles supporting the right of self-determination and the cultural and political autonomy of Indigenous peoples.

To some, this account of the evolving status of Aboriginal peoples may seem strange and perhaps unsettling. It has points of similarity, however, with the constitutional history of the provinces and their relationship with the federal government. When the original four provinces confederated in 1867, they were recognized as retaining the equal right to govern themselves under their own laws and in accordance with their own cultures. In the case of Quebec, the constitution acknowledged the distinctive position of its civil law system and laid down specific measures protecting language and denominational schools. Other provinces, too, joined Confederation with unique provisions, negotiated at the time of entry. The constitution guarantees the autonomous status of the provinces and shields them from unwarranted federal intrusion into their exclusive spheres. In particular, the federal government does not have the right to abolish the provinces or diminish their powers. So the federal/provincial relationship provides a model for many of the features that would characterize a sound relationship between Aboriginal governments and federal and provincial governments. It allows us to see Aboriginal governments as constituting one of three distinct orders of government that together make up the Canadian federation.

The principle of mutual recognition can also be justified in terms of the values associated with a liberal democracy. Both Aboriginal and non-Aboriginal people expect a political association to enable them to participate freely in governing their societies and also to carry on their private lives in an autonomous and responsible fashion. However, the first benefit, civic participation, cannot be achieved if Aboriginal peoples are deprived of their autonomy and rendered subservient to outside governments. Such a situation is not only unjust; it also fosters the culture of alienation and defiance that tends to develop among any free people compelled to submit to alien laws and ways. Self-government enables Aboriginal people to participate in the direction of their own affairs according to their own laws and cultural understandings. This is the basis upon which Aboriginal peoples can join with others in building a strong and enduring partnership to achieve common goals.

The second benefit, individual freedom and responsibility, is equally important. Aboriginal people in general have a strong sense of responsibility to their communities. However, this sense of responsibility is often combined with an equally strong ethic of personal autonomy, under which individuals are expected to carry out their responsibilities at their own initiative, without coercion. Of course, this ethic, like any other, has its limits. In practice, it has always been tempered by competing values, such as concern for an individual's safety and the overriding welfare of the community.

The protection and enhancement of civic participation and individual freedom and responsibility have always been the primary concerns of liberal democracies. It has not always been recognized, however, that these goals can be achieved only when people are members of viable cultures that provide a supportive context for individual participation and autonomy. People can be active and responsible members of their communities only if they have a sense of their own worth and the conviction that what they say and do in both the public and the private sphere can make a significant contribution. However, this sense of self-respect is based in part on society's recognition of the value of an individual's activities and goals. A multinational society that treats the culture of a member nation with derision or contempt may well undermine the self-respect of people belonging to that culture. Such treatment jeopardizes their ability to participate as active members of their communities and to function effectively as autonomous individuals in work and private life. The disastrous effects on Aboriginal societies of successive policies of cultural assimilation bear poignant witness to this message.

To sum up, the principle of mutual recognition is not only just but also serves to preserve and enhance the values of liberal democracy in a manner appropriate to a multinational society. As such, it provides a basis for building a strong and enduring partnership between Aboriginal and non-Aboriginal people in Canada. On these points, it is worth remembering some thoughts expressed during our hearings:

> "Equality and justice are not guaranteed by law but by friendship."
>
> It is our contention that this [quotation from Plato] has much to do with the Canadian context and with the relationship that needs to develop.
>
> We don't need more laws in Canada. We need a new relationship. We need a relationship based on respect. We need a relationship of equals and we need a relationship that recognizes we of non-Native origin have as much, if not more, to learn and to gain as we do to teach and to give.
>
> Darryl Klassen
> Aboriginal Rights Coalition
> Ottawa, Ontario, 16 November 1993

1.2 The Second Principle: Mutual Respect

From mutual recognition flows mutual respect, the second basic principle of a renewed relationship. Many Aboriginal people, particularly those adhering to traditional ways, accord respect to all members of the circle of life – to animals, plants, waters and unseen forces, as well as human beings. Failure to show proper respect to these entities violates spiritual law and may well bring

retribution. As a character in Richard Wagamese's novel, *Keeper'n Me*, remarks, respect is the "big centre of it all".[3]

In the larger Canadian society as well, respect is a valued aspect of relationships. Under the *Canadian Charter of Rights and Freedoms*, for example, individuals are recognized as warranting respect simply by virtue of their humanity. As human beings, individuals are of equal dignity and essential worth and should be valued as ends in themselves, not as means to other goals. There are also strains of thought in Canadian society that resemble the Aboriginal concept of a circle of life and maintain that respect should extend beyond the human domain to all living things, to all God's creatures, or to nature in general.

In the present context, however, we want to focus on one aspect of the concept of respect: the quality of courtesy, consideration and esteem extended to people whose languages, cultures and ways differ from our own but who are valued fellow-members of the larger communities to which we all belong. In this sense, respect is the essential precondition of healthy and durable relations between Aboriginal and non-Aboriginal people in this country. As Gerald Courchene stated at our hearings,

> All we ask for is respect, respect for the sacredness of the treaties, respect for our remaining homelands and, most important, respect for our decisions.
>
> Gerald Courchene
> Fort Alexander, Manitoba
> 30 October 1992

Unfortunately, official policies have often deviated from this principle in the past, as we saw earlier in this volume. Especially from the mid-nineteenth century on, government policy was directed at smothering the right of Aboriginal peoples to exist as distinct peoples, with their own languages and cultures. This denial took the form of policies such as residential schooling and the suppression of Aboriginal languages, policies that were designed to erase people's identification with their own communities and to substitute an undifferentiated Canadian identity.

Where a public attitude of cultural disrespect prevails, cultural difference is often seen simply as a deficiency or disability. The child who enters an English- or French-language school speaking only an Aboriginal language may be treated as 'backward' or deficient in language skills. The Aboriginal worker who engages in seasonal hunting to help provide food for his extended family is considered 'unreliable' or delinquent. Such attitudes erode a person's sense of self-worth and discourage a commitment to education or employment; in the long run, they may even encourage dependency and self-abuse. If these results are seen as confirming the original assessment, the vicious circle is complete.

These examples illustrate once again the close link between mutual recognition and respect at the collective level and feelings of self-respect at the individual level. Poor self-esteem, in turn, affects the ability of the individual to act autonomously and responsibly in public and private life. Public attitudes of mutual respect must therefore accompany and reinforce the recognition of equality.

We emphasize the idea of *public* attitudes because respect involves more than a change of heart within individuals. It requires us to examine our public institutions, their make-up, practices and symbols, to ensure that they embody the basic consideration and esteem that are owed to Aboriginal and non-Aboriginal languages and cultures alike. In doing this, we need to ensure that the distinctive contributions of different Aboriginal peoples are recognized and to avoid an artificial homogenization of Aboriginal cultures. As Sheila Genaille pointed out,

> The Métis are a distinct nation of Aboriginal people. We see ourselves separately from Indians and Inuit. We have a unique, colourful, valuable history and culture. What happens is that we are lumped together with the other Aboriginal groups under the term 'Aboriginal' or 'Native'. The effect of this lumping of Aboriginal peoples is that Métis issues, concerns and priorities are lost, the issues that affect us left unattended.
>
> Sheila Genaille
> Alberta Metis Women's Association
> Slave Lake, Alberta, 27 October 1992

We also emphasize the need for *mutual* respect. As Gary LaPlante candidly observed,

> My point here is that race relations is a two-way street. While we make all kinds of comments about what the non-Aboriginal community should do or that the non-Aboriginal government should set up certain institutions on how to deal with racism, I think we have to deal with it as well. I am prepared to say it because in the past I have had to deal with my own racism. I know other Aboriginal people who are racist and I hear negative comments toward non-Aboriginal people.
>
> Gary LaPlante
> Kewatin Communications
> North Battleford, Saskatchewan, 29 October 1992

Historically, the destructive effects of racial and cultural prejudice have been felt most keenly on the Aboriginal side. But disrespect has an insidious way of breeding disrespect. Sometimes there is also a need for Aboriginal people to show

greater consideration for the various groups that make up Canadian society, to acknowledge the deep roots they have put down in Canadian soil, and to recognize the potential benefits of cross-cultural exchanges and interactions. To quote again from a character in Richard Wagamese's *Keeper'n Me*:

> But us Indyuns, well, history kinda taught us to be afraida change. So we are. Afraid of losin' ourselves. Indyuns got a lotta pride and always wanna be walkin' around bein' Indyun. Don't wanna think they're walkin' around bein' anything else. So lotta times they only do what they think are Indyun things. Hang around with only other Indyuns, only go where other Indyuns go, only do things other Indyuns do. Watch sometime you see it good. It's okay on accounta you get kinda strong that way, but's weakening us too lotta the time. Get all closed in on yourself. It's like a private club like the white people got out there. The only difference is, you always gotta be payin' to join. Ev'ry day you gotta pay to join. Gotta pay up in all kindsa lost opportunity and lost chances. Tryin' to stay one way means you're robbing yourself of things might even make you stronger. Me I seen lotsa Indyuns thinkin' that way and all the time robbing themselves and their kids of big things that will help 'em live forever as Indyuns.

The experience of living in a society where a variety of languages, cultures, religions, forms of government and economic organizations thrive can be enriching. It enables people to see their own culture as one among many and to gain a tolerant, self-critical attitude. This is a benefit in itself, but it also fosters the personal qualities needed to live, work and compete in the diverse global market of the twenty-first century. As Earl Dean commented,

> The basis of my thinking is that I think people do develop mutual respect when they are working together. I think the work has imperatives that force people to do their best, to do what they can and I think when we see each other responding to our work, we develop respect for one another. I have worked with Cree people, with Slavey people, with Inuit people and have always found quite a basis for respect. That respect is tied to very practical things. The people I have worked with have been very competent on the land, very good travellers, very good companions.
>
> Earl Dean
> Xeno Exploration
> Yellowknife, Northwest Territories, 9 December 1992

Respect among cultures creates a positive, supportive climate for harmonious relations, as opposed to the acrimonious and strife-ridden relations of a

culture of disdain. Respect for the unique position of Canada's First Peoples – and more generally for the diversity of peoples and cultures making up this country – *should* be a fundamental characteristic of Canada's civic ethos.

1.3 The Third Principle: Sharing

Closely related to mutual respect is the principle of sharing: the giving and receiving of benefits. Although sharing nourishes and sustains many different types of social relationships, it has particular relevance to relations in the economic sphere.

Sharing and reciprocity are important components of many Aboriginal world views, which see all living beings as striving for harmony, within themselves and with their surroundings. An animal that is asked to give up its life for food must be given recognition in a thanksgiving ceremony. People share their goods and homes with visitors, who in turn express their gratitude by making gifts to the hosts or other needy persons at a later date. Reciprocity in gift giving has also been a long-standing feature of commercial and other relations among Aboriginal nations. The bonds that hold many Aboriginal communities together are created and renewed in public ceremonies of sharing through the giving and receiving of gifts, as with the potlatch among the west coast nations. Sharing is seen not just as one kind of relationship among many, but as the basis of all relationships.

Among Inuit of Baffin Island, for example, practices of community sharing have been pervasive since ancient times. According to one study, this sharing continues to be an integral part of Inuit lifeways today, both in the larger communities and in the hunting and fishing camps:

> The sharing encompasses all aspects of Inuit lives, including everything from meat and tools, to children and knowledge – it is the glue that binds the community into a cohesive whole. The sharing is so innate among the Inuit that they find it very difficult to live in a culture where it is absent. Where this generalized reciprocity has been broken down by southern intrusions, such as the monetary system, the sale of meat, or the drug trade, the community members often feel confused and frustrated.[4]

Inuit hunters returning to camp are always greeted with great excitement, the researchers explain, because game is shared by the entire community. In the past, news spread rapidly among camp members by word of mouth. These days, the news is often broadcast on the local radio station. As one person explained to the researchers,

> When I shot my first polar bear I went on the radio to share the meat. Soon it was all gone. I kept the hip piece for Christmas. I boiled it

> then and invited everyone to come for food. I was named after someone, so I gave him boiled polar bear. My husband never announces over the radio – instead he gives meat to our extended family. He always shares his catch of game with everyone. He is happy to give away caribou and seal.

Sharing has also been a long-standing feature of wider Canadian society. From the joint endeavours of old-time barn-raising and quilt-making to the rise of the co-operative movement in Saskatchewan, Quebec and the Atlantic region, from the proliferation of volunteer agencies to the high rate of charitable giving among Newfoundlanders, Canadians from all backgrounds and walks of life have always shown a strong commitment to the social and personal benefits that flow from sharing with others the fruits of one's knowledge, labour and resources.

It is often forgotten that Canada finds its origins in acts of sharing. During the early days of European exploration and settlement, Aboriginal people shared their food, hunting and agricultural techniques, practical knowledge, trade routes and geographical lore with the newcomers. Without their assistance, the first immigrants would often have been unable to prosper or even survive. Without Aboriginal innovations, the first newcomers and subsequent generations would have been much poorer.[5] As we have seen, many of the treaties were grounded in attitudes of sharing, whereby the Aboriginal parties agreed to share their lands with the new arrivals. The treaties involved other exchanges as well, such as commitments to maintain peace and friendship, engage in trade, furnish military support, or provide educational and medical benefits. However, the sharing of the land was at the heart of the relationship.

In the early period, many newcomers entered into relations of sharing with Aboriginal peoples. They acquired land by agreement, exchanged gifts at annual treaty ceremonies, engaged in thanksgiving ceremonies, and developed global trading systems in which Aboriginal and non-Aboriginal partners pooled their knowledge and skills. Some Aboriginal people look back to the fur trade era as a time when the relationship was more balanced, when their skills as harvesters of resources were valued and their business acumen served them well in securing trade goods.

During the nineteenth century, however, a more unequal and coercive system was superimposed on the joint economy. Aboriginal peoples were subjected to the rule of outside governments, and land was taken without their consent. The original sharing of lands, goods and knowledge among indigenous peoples and newcomers gradually faded from Canada's collective memory and was downplayed or completely overlooked in the history books. Aboriginal contributions to the fur trade and the larger economy were largely forgotten.

Despite these developments, some forms of reciprocity continued on the non-Aboriginal side. Increasingly, however, they took the form of charitable

handouts, often given only grudgingly. In this century, and especially since the Great Depression, they have taken the form of welfare and make-work projects, some of which are more generous than their forerunners but often no less soul-destroying. In many sectors, relations of economic interdependency have been transformed into relations of dependency. For this reason, among others, many Aboriginal groups want to negotiate agreements that will restore access to their ancestral lands and enable them to share in the resources and revenues the lands generate. With a renewed economic base, Aboriginal peoples hope to be in a position to engage once again in genuine relations of reciprocity and sharing.

This point was emphasized by Grand Chief Jocelyne Gros Louis of the Huron-Wendat Nation in a presentation to the Commission:

> What we want Canada to do is to give us the support we need in order to regain our own strength so that we can once again walk the right path under our own steam. This means sharing with us the renewal of our self-respect and our pride in our heritage. This means paying attention to the use of language, symbols and cultural opinions so that our peoples are not offended. This also means letting us take care of ourselves through equal access to the revenues generated on our traditional lands and working with us as partners on these vast expanses of land. [translation]
>
> Grand Chief Jocelyne Gros Louis
> Huron-Wendat Nation
> Wendake, Quebec, 17 November 1992

During the nineteenth century, the prevailing viewpoint held that relations of economic co-operation can evolve and be maintained through calculations of immediate self-interest alone. This outlook stands in contrast to an older view, held by Aboriginal people and early administrators alike, that forms of economic co-operation can evolve and be sustained only with a strong element of sharing. In this view, the participants in an economic exchange see themselves not only as calculators of immediate advantage but also as partners engaged in relations of mutual benefit and reciprocity over time. The partners look out for their long-term shared interests and shape their conduct accordingly. If this dimension of sharing is overlooked, the acid of ingratitude may corrode the social fabric. In more recent times, the dimension of 'sociability', as it is called, has once again come to be recognized as an essential aspect of the highly complex relations involved in modern forms of economic and political co-operation.

This outlook informs Canada's constitutionally protected practice of provincial equalization, which is recognized as an important unifying feature of Confederation. From one angle, of course, equalization can be seen as a form of enlightened self-interest, whereby the provinces that happen to be more prosperous today 'insure' themselves against the effects of possible economic

downturns in the future. However, equalization goes deeper than this. It is the acknowledgement, essential to any enduring partnership, that the Canadian economy is a shared enterprise, to which all contribute in various ways and from which all should benefit as a necessary condition of social harmony and balance. The economy's distribution mechanisms acting alone fail to deliver these benefits equitably and so fail to provide the basic conditions that enable the economy to survive.

The question is how sharing can be built into the renewed relationship between Aboriginal peoples and the larger Canadian society so as to generate mutually beneficial economic interdependence and ecologically benign forms of resource management. The detailed answers we propose are found in later chapters (see especially Volume 2, Chapters 4 and 5). Some general guidelines can be mentioned here, however.

First, as in any modern co-operative relationship, the partners must recognize each other's basic rights, including, in this instance, rights of self-government and rights of equality as peoples. They must also display respect for their respective cultures and institutions.

Second, our histories, public institutions and popular cultures must give greater recognition to what is often unacknowledged: the relation of sharing that is at the foundation of the Canadian federation and its economy.

Third, as a long overdue act of justice, Aboriginal people should regain access to a fair proportion of the ancestral lands that were taken from them.

Fourth, if sharing is to be a valued part of the renewed relationship, both parties need to be in a position to engage in exchanges on an equal basis. Meaningful sharing is not possible under conditions of poverty and dependence, so strong and effective measures need to be taken to address the often appalling inequalities that separate Aboriginal and non-Aboriginal Canadians in such sectors as health, housing, income and overall living conditions.

Finally, sharing must take a form that enhances, rather than diminishes, people's capacity to contribute to the whole. Transfers that perpetuate relations of dependency, such as welfare payments, are not the long-term solution. Rather, just as they helped newcomers in the past, Aboriginal peoples should be assisted to develop economic self-reliance through new relations of economic co-operation in resource development and other fields.

Policies based on these guidelines will vary widely for different Aboriginal peoples, depending on such factors as their land base, degree of urbanization and participation in the wider economy. In all cases, however, policies should rest on the same twin foundations: the long overdue recognition that our past and present prosperity rests on a relationship of sharing extended by Aboriginal peoples; and the commitment to renew this ancient partnership for the future prosperity and well-being of all.

1.4 The Fourth Principle: Mutual Responsibility

Ideally, Aboriginal peoples and Canada constitute a partnership in which the partners have a duty to act responsibly both toward one another and also toward the land they share. The principle of mutual responsibility, then, has two facets.

Some of the basic features of the partnership between Aboriginal peoples and Canada become clearer if we compare it to an ordinary business partnership, in which the parties typically agree to co-operate in carrying on a joint enterprise, to hold certain assets in common, and to share in the profits and liabilities of the undertaking. Since each partner has the capacity to act in a way that affects the prosperity of the overall enterprise, each partner is also liable to suffer from the mistakes or wrongdoing of the other partners. This *mutual vulnerability* on the part of the partners gives rise to *mutual obligations,* in what lawyers describe as a *fiduciary relationship.* By virtue of this relationship, each partner has an obligation to act with the utmost good faith with respect to the other partners on matters covered by their joint endeavour.

The partnership between Aboriginal peoples and Canada is political and constitutional rather than commercial. Nevertheless, the analogy is useful as long as we do not carry it too far. As in a business partnership, Aboriginal peoples have long shared with Canada the lands that were originally theirs alone. Since Aboriginal peoples and Canadian governments both have interests in these lands, both have the capacity to act in ways that affect the welfare of the other partners in the relationship and the well-being of the land itself. In light of this mutual vulnerability, then, Aboriginal peoples and Canadian governments both have an obligation to act with the utmost good faith toward each other with respect to the lands in question.

We have been speaking so far at the level of the ideal. In reality, as we have seen, the relationship between Aboriginal peoples and Canada is far from being an equal partnership. The capacity of Aboriginal peoples to affect Canada's interests is very limited compared to the very extensive power of Canada and its governments to affect Aboriginal peoples' interests. Indeed, over the past century in particular, the relationship between partners gradually deteriorated into one between 'guardian' and 'wards'. In law, of course, guardianship is also considered a fiduciary relationship. In the latter case, however, the powers and obligations are largely one-sided; that is, the guardian has certain fiduciary obligations to the ward that restrain and control the great discretionary powers that the guardian holds.

The vision of mutual responsibility embodied in our fourth principle, then, involves the transformation of the colonial relationship of guardian and ward into one of true partnership. This partnership can be realized, however, only when Aboriginal peoples secure political and constitutional autonomy, as constituent

members of a distinct order of government, and an economic and resource base sufficient to free them from the debilitating effects of long-term 'welfare'.

To this point, we have spoken mainly of the responsibilities Aboriginal peoples and Canada bear to one another. They also have responsibilities to the land they share. Aboriginal elders explained to the Commission that the identities of their peoples are strongly related to the places where they live, that the Creator placed them here with the responsibility to care for life in all its diversity. This responsibility is timeless. To make sound decisions today about the land and the environment, people need to look back to the wisdom of the ancestors as well as forward to the interests of future generations, as far as the seventh generation and beyond. At the core of Aboriginal identity is the unshakeable sense of responsibility to the spirit of life, which manifests itself in complex interconnected patterns in the natural world. To quote the words of Chief Crowfoot a century ago,

> What is life? It is the flash of a firefly in the night. It is the breath of a buffalo in the wintertime. It is the little shadow which runs across the grass and loses itself in the sunset. [translation][6]

As we saw earlier, this responsibility to life is coupled with a strong sense of personal responsibility. A person learns to assume responsibility for others and the environment through an individual quest to achieve awareness of one's place in nature. This is a lifelong process, marked periodically by ceremonies and rites of passage.

This two-fold ethic of responsibility does not find perfect expression in the everyday activities of Aboriginal people. As in other societies, there is always a tension between the ideal state of affairs and the realities of daily life. Still, when they emphasize the ethic of responsibility, rather than the right to do as one pleases, the elders speak from an ancient and powerful understanding of the nature of humanity and its place in the larger community of life.

This sense of responsibility to nature is echoed in various outlooks, attitudes and beliefs that have always found a prominent place in the broader Canadian tradition – attitudes that are demonstrated, for example, in the popularity of the paintings of the Group of Seven and widespread support for national and provincial parks. Nevertheless, over the past century, the ethic of stewardship has often been eclipsed by a careless and uninformed attitude to nature, an attitude that tacitly assumes that the earth is a virtually limitless resource at the disposal of the human species. This outlook is, fortunately, now on the wane. Environmentalists, among many others, have alerted us to the enormous damage already caused to the natural world, damage that threatens to render the planet uninhabitable if it continues. There is an emerging awareness of the environment as an interdependent system in which humanity, as one element among countless others, has a significant role in sustaining the ecological balance.

Ecological diversity is valuable for the same reason that cultural diversity is: it allows for greater flexibility, adaptability and creativity in the system as a whole. In the long run, our very existence and well-being may depend on such flexibility. However, the shift away from an exploitative approach to nature goes even deeper than this for many Canadians. It is rooted in the sense that to act irresponsibly is not just short-sighted but a spiritual failure. It is an act of sacrilege and desecration against the ultimate source of our being.

This broader vision of Canada as a place of cultural and ecological diversity and of Canadians as stewards of this dwelling-place is an increasingly prevalent one. It is as though Canadians are finally shaking off the habit of defining themselves in terms of traditions derived from other continents and other ages. Not surprisingly, many are turning to indigenous Canadian wisdom for guidance in developing an ethic of responsibility appropriate to our emerging understanding of this country (see Volume 4, Chapter 3).

The Commission believes that the renewed relationship between Aboriginal and non-Aboriginal people will flourish only if it is infused with this dual sense of responsibility to one another and to our environment and dwelling-place. This fourth principle provides the final strand in a just partnership between Aboriginal and non-Aboriginal people.

2. Maintaining the Relationship

The Six Nations of the Iroquois Confederacy have traditionally described their relations with other nations as a silver covenant chain (see Chapter 5). "Silver is sturdy and does not break easily," they say. "It does not rust or deteriorate with time. However, it does become tarnished. So when we come together, we must polish the chain, time and again, to restore our friendship to its original brightness." In other words, a relationship among peoples is not a static thing. It changes and develops over time, in response to new conditions. If constant efforts are not made to maintain and update it, it can easily deteriorate or fall apart.

Canadians have prided themselves on their vision of a society that accommodates differences in language, culture and regional characteristics. Each province, as it joined Confederation, brought with it distinctive traditions, customs and priorities, rooted in its unique makeup and history. For example, the *Constitution Act, 1867* recognized the distinctive position of Quebec, its laws and dominant language, even if, in the eyes of many Québécois today, the act did not go nearly far enough. And when Manitoba entered Canada in 1870, special constitutional provisions were made regarding such matters as the Aboriginal land title of the Métis people and the official use of the English and French languages – even though these provisions were honoured more in the breach than in the observance. What we have learned in the course of our long and sometimes turbulent association is that it is possible to maintain a proper balance

between unity and diversity only by continuous care and attention. A relationship among peoples is not a once-and-for-all transaction. It needs to be adjusted regularly and, from time to time, explicitly reaffirmed.

Many Aboriginal people across Canada see treaties and similar agreements as the pre-eminent means of creating and acknowledging relationships. Treaties, in their view, are not just historical documents; they are living instruments that bind peoples together. Thus the negotiation and renewal of treaties can be an important mechanism for re-establishing and adjusting relationships over time. This view was emphasized in the comments of Grand Chief Anthony Mercredi:

> The principles which the treaty-making process demonstrates are simple, yet they are of enormous significance to the achievement of social peace and reconciliation with our peoples in Canada today. When the Crown entered into treaty with our people this was done in a manner based on our spiritual ceremonies and practices of solemnizing agreements. When the treaty was concluded we shared our sacred pipe with the Crown's representatives and we shared other ceremonies, including an exchange of gifts or wampum. The fact that our ceremonies were used tells us that the basis of our relationship with non-Aboriginal governments is one which respects the fact that we are different. It respects the fact that we have our own cultures, political systems, spirituality and that these are not inferior to those of European peoples.
>
> Anthony Mercredi, Grand Chief
> Treaty 8, Ottawa, Ontario
> 5 November 1993

The process of treaty making and renewal also illustrates a more general point: the importance of dialogue in creating and maintaining relationships. As Clifford Branchflower, the mayor of Kamloops, observed,

> It is a great deal easier to reject the ideas and aspirations of people with whom we have never shaken hands, with whom we have never laughed together over a joke, or with whom we have never sat down to a shared meal. Whatever the future holds with regard to the political situation for the Aboriginal people, we are going to need to get along with one another and we need to interact with one another.
>
> Clifford G. Branchflower
> Kamloops, British Columbia
> 15 June 1993

When Aboriginal and non-Aboriginal people meet, exchange ideas and negotiate, they unavoidably bring to the table their own modes of communicating and understanding. In other words, the dialogue becomes intercultural. It

would be misleading to pretend that such a dialogue is always easy or straightforward. All sorts of misunderstandings can arise simply because the partners speak and act in accordance with their particular cultural predispositions and expectations, which are not necessarily shared or even understood by the other party.

In such situations, there is a tendency for the more powerful party to try to overcome these difficulties by forcing its own way of doing things on the other party, on the assumption that this is clearly the 'normal' or 'better' way. However, the basis for genuine dialogue is destroyed when one party is compelled to speak and act exclusively through the medium of the other party's language, cultural forms and institutions. Justice and basic courtesy demand that parties to a relationship be able to contribute to a dialogue in their own accustomed voices and ways, even if this requires some patience and perseverance on all sides.

Fortunately, when Aboriginal and non-Aboriginal people meet today, they do not start from the beginning, nor are they trapped in mutually incomprehensible world views. They have, after all, been meeting, interacting and co-operating for more than 500 years. Contact has shaped the cultural identities of all the parties to the relationship in many and varied ways, some of which are obvious, while others are so subtle and pervasive as to pass virtually unnoticed. Contact has also generated a number of mutually acceptable modes of discussing and acting together. In effect, an intercultural common ground already exists, where the attitudes and expectations of the various parties are familiar to one another.

It is important not to misunderstand the nature of this common ground. It is far from ideal. It is shot through with relations of inequality, coercion and fraud, with broken promises, failed accords, stereotypes, misrecognition, paternalism, enmity, distrust, resentment and outrage. Nevertheless, Aboriginal and non-Aboriginal people have walked together on many paths during their long intertwining histories, often in peace and friendship, with good intentions and mutual respect. They have shared knowledge and goods, made treaties and traded, co-operated in building bridges, skyscrapers, airlines and orchestras, jointly managed resources, defended Canada together through many wars, stood in awe of one another's art and spirituality, and fallen in love. The resulting intercultural institutions and practices, as inadequate and distorted as they sometimes are, provide the starting point for a renewed dialogue. There is no other alternative, no universal language that transcends the cultures.

Finally, there is a special bond that holds the partners together: a strong sense of historical attachment to this land called Canada. For many Aboriginal and non-Aboriginal Canadians, the history of their association is strongly linked with a shared life on the land. As Chris O'Brien commented eloquently,

> I believe that the land will play a central role in helping mainstream society change its attitudes and values. For me, the North is my holy

> ground, my guide and my source of spiritual inspiration. My relationship with this land has changed me and has given me a larger, clearer perspective from which to judge what is right. From my own experience, I know that the land possesses an indispensable wisdom that all human beings, Aboriginal and non-Aboriginal, can and indeed must learn from. I don't believe that Aboriginal cultures are perfect, nor do I believe that mainstream culture is wholly bad. But considering the present situation, it is obvious to me that non-Native people have much more to learn from Native people than vice-versa.
>
> Chris O'Brien
> Yellowknife, Northwest Territories, 9 December 1992

We need to remember, however, that the Canadian identity is by no means uniform. Canada is a partnership among different peoples, each with its distinct history and culture. Indeed, it could be said that respect for diversity is a vital aspect of our joint identity as Canadians, the essential basis for an enduring association and a shared life. To recall an image evoked often in our hearings, the Aboriginal and non-Aboriginal partners in Confederation are like distinct rows of wampum beads in an ancient belt rubbed smooth with long use – rows that are separate but also inseparable.

3. Conclusion

In this first volume of our final report, we have offered an historical overview of relations between Aboriginal and non-Aboriginal people in Canada. We have given particular prominence to the stage of that relationship we have called displacement and assimilation, discussing the origin, characteristics and consequences of certain key legislation and policies of that period — the *Indian Act*, residential schools, relocations and veterans. We have also made recommendations about the steps that should be taken to redress the injustices of the past.

In the last part of this volume, beginning with Chapter 14, The Turning Point, we began to consider how the foundations of a renewed relationship could be constructed, directing attention in particular to certain fundamentals that need to be recognized. The first of these is the need to reject the false assumptions that shaped policy and legislation in the past. We argued that a renewed relationship must be built on a foundation of sound principles — mutual recognition, mutual respect, sharing and mutual responsibility — that will return us to a path of justice, co-existence and equality. In Volumes 2 and 5 of our report we articulate the content of a new Royal Proclamation and its companion legislation, in which we recommend that these principles be enshrined. A new Royal Proclamation will mark a turning point in the relationship. It will initiate a period of nation building on the part of Aboriginal societies and completion of the work of making Aboriginal people full partners in Confederation.

Recommendation

The Commission recommends that

Commitment to Ethical Principles of Relations

1.16.1

To begin the process, the federal, provincial and territorial governments, on behalf of the people of Canada, and national Aboriginal organizations, on behalf of the Aboriginal peoples of Canada, commit themselves to building a renewed relationship based on the principles of mutual recognition, mutual respect, sharing and mutual responsibility; these principles to form the ethical basis of relations between Aboriginal and non-Aboriginal societies in the future and to be enshrined in a new Royal Proclamation and its companion legislation (see Volume 2, Chapter 2).

We also noted in Chapter 14 that one of the first steps in building a renewed relationship is the need to abandon doctrines such as *terra nullius* and discovery. The concept of *terra nullius* was used by Europeans to suggest that they came to empty, uninhabited lands or at least to lands that were not in the possession of 'civilized' peoples, that were not being put to 'civilized' use. The doctrine of discovery held that the discovery of such lands gave the discovering nation immediate sovereignty and all right and title to it.

These concepts must be rejected. To state that the Americas at the point of first contact with Europeans were empty uninhabited lands is, of course, factually incorrect. To the extent that concepts such as *terra nullius* and discovery also carry with them the baggage of racism and ethnocentrism, they are morally wrong as well. To the extent that court decisions have relied on these fallacies, they are in error. These concepts have no legitimate place in characterizing the foundations of this country, or in contemporary policy making, legislation or jurisprudence. If we are to build a renewed relationship between Aboriginal and non-Aboriginal people in Canada, we cannot do it by unilateral and demeaning assertions. Rather, we have to find or rediscover other ways to describe the foundations of this country, to recognize rather than dismiss the rights and contributions of Aboriginal peoples, and to undertake the difficult task of renewal through dialogue and agreement.

Much of the content of our report outlines the steps that need to be taken to achieve these goals.

Recommendation

The Commission recommends that

Terra Nullius and the Doctrine of Discovery

1.16.2

Federal, provincial and territorial governments further the process of renewal by

(a) acknowledging that concepts such as *terra nullius* and the doctrine of discovery are factually, legally and morally wrong;

(b) declaring that such concepts no longer form part of law making or policy development by Canadian governments;

(c) declaring that such concepts will not be the basis of arguments presented to the courts;

(d) committing themselves to renewal of the federation through consensual means to overcome the historical legacy of these concepts, which are impediments to Aboriginal people assuming their rightful place in the Canadian federation; and

(e) including a declaration to these ends in the new Royal Proclamation and its companion legislation.

The principles described in this chapter are an essential but not sufficient basis for constructing a renewed relationship. In subsequent volumes of our report, we present details of the changes in laws, institutions and policies that are necessary to give substance to a commitment to a new beginning. More specifically, the concepts examined in Volume 2, *Restructuring the Relationship*, are the self-determination of Aboriginal peoples through self-government within Canada and the achievement of greater self-reliance through the equitable sharing of lands and resources and through economic development. In Volume 3, *Gathering Strength*, we turn our attention to the evidence of disadvantage in major dimensions of Aboriginal life, which are attributable in large part to false assumptions and failed policies of the past. We propose measures to correct inequities and to establish the conditions under which Aboriginal people can assume responsibility for the personal and collective healing that is urgently required. These strongly interrelated concepts — a renewed relationship, self-determination, self-reliance and healing — are central to the message the Commission heard in its many public hearings.

We believe a new relationship is of critical importance, and the four defining principles outlined in this chapter will provide a solid foundation for it. They will also contribute to the development of sound strategies for the achievement of self-determination, self-reliance and healing. Furthermore, as we make clear in subsequent volumes, we are convinced that these elements reinforce each other — that self-determination is an important element in achieving self-reliance, that a greater degree of autonomy in the political realm is illusory without a strong economic base, and that both these elements will contribute to and be nourished by the process of healing.

The challenge, therefore, is not only to recognize interdependence among the elements but also to change the dynamic among them so that a positive cycle of development occurs. In other words, we need to restore the balance that has been so profoundly disrupted for so much of the time we have lived side by side in Canada.

Notes

1. Quotations from transcripts of the Commission's public hearings are identified with the speaker's name and affiliation (if any) and the location and date of the hearing. For information about transcripts and other Commission publications, see *A Note About Sources* at the beginning of this volume.
2. See Volume 2, Chapter 3. See also Royal Commission on Aboriginal Peoples, *Partners in Confederation: Aboriginal Peoples, Self-Government, and the Constitution* (Ottawa: Supply and Services, 1993).
3. Richard Wagamese, *Keeper'n Me* (Toronto: Doubleday Canada Limited, 1994), p. 116.
4. Jill Oakes and Rick Riewe, "Informal Economy: Baffin Regional Profile", research study prepared for the Royal Commission on Aboriginal Peoples [RCAP] (1994). For information about research studies prepared for RCAP, see *A Note About Sources* at the beginning of this volume.
5. Jack Weatherford documents the contributions of the Indigenous peoples of the Americas to the world but concludes that as much or more has been lost or left undiscovered: "The history and culture of America remain a mystery, still *terra incognita* after five hundred years. Columbus arrived in the New World in 1492, but America has yet to be discovered." Jack Weatherford, *Indian Givers: How the Indians of the Americas Transformed the World* (New York: Ballantine Books, 1988), p. 255.
6. Quoted in Ethel Brant Monture, *Canadian Portraits: Brant, Crowfoot, Oronhyatekha, Famous Indians* (Toronto: Clarke, Irwin & Company Limited, 1960), p. 128.

Appendix A

The Commission's Terms of Reference

P.C. 1991-1597

Schedule I*

The Commission of Inquiry should investigate the evolution of the relationship among aboriginal peoples (Indian, Inuit and Métis), the Canadian government, and Canadian society as a whole. It should propose specific solutions, rooted in domestic and international experience, to the problems which have plagued those relationships and which confront aboriginal peoples today. The Commission should examine all issues which it deems to be relevant to any or all of the aboriginal peoples of Canada, and in particular, should investigate and make concrete recommendations concerning:

1. The history of relations between aboriginal peoples, the Canadian government and Canadian society as a whole.

This investigation may include studies of historical patterns of aboriginal settlement and governance, the Royal Proclamation of 1763, the development and interpretation of pre- and post-confederation aboriginal treaties, the evolution of political arrangements in the North, and social tensions which have characterized the relationship between aboriginal and other Canadian communities. Building upon this historical analysis, the Commission may make recommendations promoting reconciliation between aboriginal peoples and Canadian society as a whole, and may suggest means by which aboriginal spirituality, history and ceremony can be better integrated into the public and ceremonial life of the country.

2. The recognition and affirmation of aboriginal self-government; its origins, content and a strategy for progressive implementation.

The Commission's investigation of self-government may focus upon the political relationship between aboriginal peoples and the Canadian state. Although self-government is a complex concept, with many variations, the essential task is to break the pattern of paternalism which has characterized the relationship between aboriginal peoples and the Canadian government. The Commission should review models of self-government which have been developed in Canada

* The Commission's terms of reference were contained in Schedule I to an order in council (P.C. 1991-1597) dated 26 August 1991.

and around the world, and should make recommendations concerning fiscal arrangements and economic development initiatives necessary for successful transitions to self-government. The scope, effect and future elaboration of ss. 25 and 35 of the *Constitution Act, 1982* may be evaluated.

3. The land base for aboriginal peoples, including the process for resolving comprehensive and specific claims, whether rooted in Canadian constitutional instruments, treaties or in aboriginal title.

The Commission may investigate and explain the deep spiritual and cultural ties which bind aboriginal peoples to the land, the relationship between an adequate land base and economic development, and the importance of environmental protection. It may also outline appropriate processes for the settlement of outstanding comprehensive and specific claims. The scope, effect and future elaboration of ss. 25 and 35 of the *Constitution Act, 1982* may be evaluated in relation to the land base as well as to self-government.

4. The historical interpretation and application, and potential future scope, of s. 91(24) of the *Constitution Act, 1867* and the responsibilities of the Canadian Crown.

An investigation of s. 91(24) may include examination of the internal political organization of aboriginal communities, the obligations of the federal Crown towards aboriginal people, the representation of aboriginal people in Canadian political institutions, and the relationship and potential for conflict between s. 91(24) and aboriginal notions of law and the legal process.

5. The legal status, implementation and future evolution of aboriginal treaties, including modern-day agreements.

An investigation of the historic practices of treaty-making may be undertaken by the Commission, as well as an analysis of treaty implementation and interpretation. The Commission may also want to consider mechanisms to ensure that all treaties are honoured in the future.

6. The constitutional and legal position of the Métis and off-reserve Indians.

The Commission may examine legislative jurisdiction concerning the Métis and Non-status Indians, and investigate the economic base of, and the provision of government services to, these people and to off-reserve and urban Indians.

7. The special difficulties of aboriginal people who live in the North.

The Commission may investigate the difficulties and cost of communications and transport, issues of environmental protection, sustainable economic and social development, access to natural resources, and any differential treatment of northern aboriginal people by the Canadian and Territorial Governments.

8. The *Indian Act* and the role, responsibilities and policies of the Department of Indian Affairs and Northern Development (DIAND).

The Commission may investigate in particular the legislative scheme of the *Indian Act*, the relationship between that scheme and the evolving policies of DIAND, the theory of aboriginal-government relations implicit in the *Indian Act*, and the future of the Act and of DIAND. All of these could be examined to determine whether existing federal legislation and administrative practices are consistent with evolving theories of Canadian law, including aboriginal and treaty rights.

9. Special issues of concern to aboriginal peoples.

In particular, the Commission may study and make concrete recommendations to improve the quality of life for aboriginal peoples living on reserve, in native settlements and communities, and in rural areas and cities. Issues of concern include, but are not limited to: poverty, unemployment and underemployment, access to health care and health concerns generally, alcohol and substance abuse, sub-standard housing, high suicide rates, child care, child welfare, and family violence.

10. Economic issues of concern to aboriginal peoples.

The Commission may investigate the problems of developing a viable economic base for aboriginal peoples, unemployment, access to labour markets, discrimination in employment, taxation and custom duties.

11. Cultural issues of concern to aboriginal peoples.

In particular, the Commission may investigate the protection and promotion of aboriginal languages, recognition by Canadian society and institutions of the intrinsic value of aboriginal spirituality, recognition by Canadian society and institutions of the intrinsic value of aboriginal family structures and child care patterns, and the protection of traditional hunting, fishing and trapping ways of life.

12. The position and role of aboriginal elders.

The Commission may examine the social and economic conditions of elders as a group, their traditional role in aboriginal societies and whether existing laws and governmental practices respect and accommodate that role, and the continuing role for elders in aboriginal societies.

13. The position and role of aboriginal women under existing social conditions and legal arrangements, and in the future.

The Commission may examine, in particular, issues related to financial and property provisions upon divorce, access to the labour market, definitions of membership

in aboriginal groups, and the role of native women in political institutions in their own communities and in non-native society.

14. The situation of aboriginal youth.

The Commission may investigate access to education, access to community leisure and sports facilities, alcohol and substance abuse, suicide amongst youth, and funding for youth programmes. The Commission may also focus upon means of enhancing and promoting a positive self-image in aboriginal youth, especially in the way they view the relationship between their historical and cultural roots and contemporary educational institutions.

15. Educational issues of concern to aboriginal peoples.

In particular, the Commission may investigate aboriginal control over primary and secondary education on reserves and in native communities (including issues of funding), the promotion and protection of aboriginal cultural identity in educational institutions (including institutions where aboriginal students are a minority group), the encouragement of aboriginal children to complete secondary education, and access to and funding for post-secondary education (including college, university and technical training).

16. Justice issues of concern to aboriginal peoples.

In particular, the Commission may investigate and make concrete recommendations concerning the relationship between aboriginal people and the police (with the policing function broadly conceived to include dispute resolution and community service), the promotion of respect for aboriginal people and culture within the justice system, techniques to aid aboriginal people in comprehending court processes especially through the provision of interpretation services, means to decrease the rate of incarceration of aboriginal offenders, methods to improve conditions of incarceration for aboriginal offenders, and the potential to elaborate aboriginal justice systems and to incorporate principles of aboriginal legal culture into the Canadian justice system.

Appendix B

Biographical Notes on Commissioners

Paul L.A.H. Chartrand, Commissioner

Paul Chartrand, of the Department of Native Studies at the University of Manitoba, was born on July 27, 1943.

A Métis, Mr. Chartrand grew up in Manitoba and graduated from the Manitoba Teachers College and the University of Winnipeg. He later studied law at the Queensland University of Technology in Australia, graduating with an honours degree, and at the University of Saskatchewan, where he specialized in Native law and received the degree of Master of Laws.

Professor Chartrand has written a book on Métis land rights, as well as articles and other publications. In recent years, he has been an adviser to government agencies and to Aboriginal organizations at the local, national and international level. He served as interim president of the Institute of Indigenous Government in Vancouver in 1995-96.

Honourable René Dussault, Co-Chair

René Dussault, Justice of the Quebec Court of Appeal, was born November 23, 1939, in Quebec City.

He received his law degree from Laval University and a PH.D. from the London School of Economics and Political Science. Mr. Dussault was a legal adviser to Quebec's Health and Welfare Inquiry Commission and lectured in law at Laval University from 1966 to 1970. He has served as Special Advisor to the Minister of Social Affairs in Quebec (1970-1973), as President of Quebec's Professions Board (1973-1977), and as Quebec's Deputy Minister of Justice (1977-1980).

He held the Laskin Chair in Public Law at Osgoode Hall Law School in Toronto from 1983 to 1984. He taught at the Quebec National School of Public Administration from 1981 to 1989 and has practised law and written and co-written several books on administrative law, including *Administrative Law: A Treatise*. In 1987, he was elected a Fellow of the Royal Society of Canada and received the Quebec Bar medal, the highest distinction bestowed by the Bar in recognition of outstanding contributions by Quebec jurists to the advancement of law and its practice. In 1992, he was awarded an honourary Doctor of Laws degree from York University.

Georges Erasmus, Co-Chair

Georges Henry Erasmus, National Chief of the Assembly of First Nations from 1985 to 1991, was born August 8, 1948, in Fort Rae, Northwest Territories.

In the early 1970s, he served as a fieldworker and a regional staff director for the Company of Young Canadians. He was president of the Dene Nation from 1976 to 1983, during which time he led successful efforts to stop the Mackenzie Valley Pipeline. In 1983, he became the founding president of the Denendeh Development Corporation.

Mr. Erasmus serves as a board member for many organizations and foundations across Canada dedicated to the advancement of human rights and ecological concerns, including Energy Probe Research Foundation, the World Wildlife Fund of Canada, Operation Dismantle and others.

In 1985, Mr Erasmus went to England on behalf of Indigenous Survival International and succeeded in persuading Greenpeace to drop an anti-fur campaign. He visited the Soviet Union in 1986 to study the economic conditions of Indigenous people living in Siberia.

Mr. Erasmus is co-author of the book *Drumbeat: Anger and Renewal in Indian Country.* In 1989, he received an honourary Doctor of Laws degree from Queen's University, Kingston, Ontario. He was appointed to the Order of Canada in 1987.

J. Peter Meekison, Commissioner

J. Peter Meekison, University Professor of Political Science and Belzberg Chair in Constitutional Studies (Faculty of Law) at the University of Alberta, was born in January 1937. He has been on the Faculty at the University of Alberta since 1967. He served as deputy minister of the Department of Federal and Intergovernmental Affairs for the province of Alberta from 1977 to 1984. He served as Vice-President (Academic) of the University of Alberta from 1984 to 1991. He has been actively involved in constitutional discussions over the past two decades.

Named an officer of the Order of Canada in 1986, Professor Meekison obtained a B.A.SC. and a B.A. from the University of British Columbia, then an M.A. and PH.D. in Political Science from the University of Western Ontario and Duke University.

Professor Meekison sits on the board of directors of the Institute for Research on Public Policy and the McGill Institute for the Study of Canada and on the board of governors of the Canadian Centre for Management Development.

Viola Marie Robinson, Commissioner

Viola Robinson is a Micmac Indian born in Amherst, Nova Scotia. She attended the Micmac Indian Day School at Shubenacadie and the Sacred Heart Academy in Meteghan before completing her formal education at the Maritime Business College in Halifax.

Ms. Robinson entered native politics in 1975 when she was elected vice-president of the Non-Status and Métis Association of Nova Scotia. The following year she was elected president of the association, re-named the Native Council of Nova Scotia. In 1990, she became the president of the Native Council of Canada, a post she held until August 1991.

She has served on the boards of many native organizations in Nova Scotia, including a term as chairperson of the Mikmakik Development Corporation. In 1990, she received an honourary Doctor of Laws degree from Dalhousie University in Halifax.

Mary J. Sillett, Commissioner

Mary Sillett was born July 10, 1953, in Hopedale, Labrador, and has extensive experience in Aboriginal affairs dating back to the early 1970s. Her work experience includes executive and board positions with several Labrador community and regional organizations. Through these organizations, she gained invaluable experience in political, criminal justice, social and economic issues. She was instrumental in the groundwork leading to the creation of the Torngat Fish Producers co-operative.

Ms. Sillett relocated to Ottawa in 1981 to work as the Labrador member on the Inuit Committee on National Issues. She is a founding member of Pauktuutit, the Inuit Women's Association of Canada, and served as its president for two terms. She also served as vice-president of the Inuit Tapirisat of Canada for four years.

In 1976, Ms. Sillett completed her formal education, earning a Bachelor of Social Work Degree from Memorial University of Newfoundland.

Honourable Bertha Wilson, Commissioner

Bertha Wilson was born in Scotland on September 18, 1923. She was educated at the University of Aberdeen after which she immigrated to Canada and studied law at Dalhousie Law School in Halifax.

She practised law in Toronto with the firm of Osler, Hoskin and Harcourt from 1958 to 1975, when she was appointed to the Ontario Court of Appeal. She earned a reputation for imaginative and humane decisions in cases involving human rights, ethnic and sexual discrimination, matrimonial property and child custody.

In 1982, Justice Wilson became the first woman appointed to the Supreme Court of Canada. She has received numerous honourary degrees from Canadian universities and from her alma mater, the University of Aberdeen. Justice Wilson retired from the court in 1991. She was elected a Fellow of the Royal Society of Canada in 1991 and appointed a Companion of the Order of Canada in 1992.

Appendix C

Abridged Tables of Contents Volumes 2-5*

volume 2

Restructuring The Relationship

1. Introduction

1. Treaties
2. Governance
3. Lands and Resources
4. Economic Development

2. Treaties

1. A Need for Public Education
2. Legal Context of the Treaty Relationship
3. Historical Treaties: Justice and Reconciliation
   - 3.1 The Need for Justice
   - 3.2 The Need for Reconciliation
   - 3.3 Common Ground in the Treaties
   - 3.4 Lack of Common Ground
   - 3.5 The Vulnerability of Treaties
   - 3.6 Implementing the Spirit and Intent of Treaties
   - 3.7 The Fiduciary Relationship: Restoring the Treaty Partnership
   - 3.8 Aboriginal Rights and Title: Sharing, Not Extinguishment
   - 3.9 Sovereignty and Governance
   - 3.10 Observations Regarding Fulfilment of the Historical Treaties
4. Treaty Implementation and Renewal Process
5. Treaty-Making Process
   - 5.1 Implementation of Modern Treaties
   - 5.2 The Peace and Friendship Treaties
   - 5.3 The Making of New Treaties and Equivalent Agreements
6. Establishment of Treaty Processes
   - 6.1 Royal Proclamation
   - 6.2 Companion Legislation

* Tables of contents in the volumes themselves may be slightly different, as a result of final editing.

7. Content of Treaty Processes
7.1 Entry Must Be Voluntary
7.2 Timing Must Be Realistic
7.3 Long-Term Resources Must Be Available
7.4 Nature and Scope of Items for Discussion
7.5 Outcomes of the Treaty Processes
7.6 Reorganization in Preparation for Treaty Processes
7.7 Reorganization of Aboriginal and Treaty Nations
8. Institutions for Treaty Processes
8.1 The Treaty Commissions
8.2 Access to the Aboriginal Lands and Treaties Tribunal

3. Governance

1. Aboriginal Perspectives
1.1 Basic Concepts
1.2 Traditions of Governance
1.3 Visions of Governance
2. Toward an Aboriginal Order of Government
2.1 Self-Determination
2.2 Self-Government
3. Implementing an Aboriginal Order of Government
3.1 Models of Aboriginal Government
3.2 Financing Aboriginal Government
4. Transition
4.1 Transitional Measures on the Road to Self-Government
4.2 Capacity Building: Aboriginal Strategies for the Transition to Self-Government
4.3 The Structure of the Government of Canada for the Conduct of Aboriginal Affairs
4.4 Representation in the Institutions of Canadian Federalism
4.5 Conclusion

Appendix 3A Existing Financial Arrangements for Aboriginal Governments and Regional and Territorial Governments

Appendix 3B A Summary of the Proposal by the Native Council of Canada (Congress of Aboriginal Peoples) for a House of the First Peoples

4. Lands and Resources

1. The Case for a New Deal
2. Lands and Resources: Background
2.1 Lessons from the Hearings
2.2 Significance of Lands and Resources to Aboriginal People

3. How Losses Occurred
3.1 The Law's Initial Promise
3.2 Losing the Land
3.3 Failure of Alternative Economic Options
3.4 The Impact of Crown Land Management Systems
3.5 Conclusion
4. The Inadequacy of Federal Claims Initiatives
4.1 A Background of Aboriginal Protest
4.2 Three Existing Claims Policies
4.3 Specific Claims Initiatives: 1990 to 1995
4.4 The Institutional Interests of the Federal Government
4.5 Conclusion: The Need for Structural Change
5. A New Deal for Aboriginal Nations
5.1 Redressing the Consequences of Territorial Dispossession
5.2 The Contemporary Law of Aboriginal Title as a Basis for Action
5.3 A New Approach to Lands and Resources
5.4 The Aboriginal Lands and Treaties Tribunal
5.5 The Need for Public Education
6. Securing an Adequate Land and Resource Base for Aboriginal Nations
6.1 Interim Steps: Expanding the First Nations Land Base
6.2 Interim Steps: Improving Access to Natural Resources
6.3 Co-Management
7. Conclusion
Appendix A Land Provisions of Modern Treaties
Appendix B Co-Management Agreements

5. Economic Development

1. Understanding Aboriginal Economies
1.1 A Brief History of Aboriginal Economies and External Interventions
1.2 Contemporary Aboriginal Economies
2. The Levers of Change
2.1 Transforming Aboriginal Economies: An Overview
2.2 The Economic Implications of Aboriginal Rights and Treaties
2.3 Regaining Control
2.4 Lands and Natural Resources
2.5 Agriculture
2.6 Business Development
2.7 Employment Development

2.8 Education and Training
2.9 Making Innovative Use of Income Support Alternatives
2.10 Conclusion

6. Conclusions

1. An Act of National Intention
2. Negotiating a Canada-wide Framework
3. Rebuilding Aboriginal Nations
4. A Legislative Process for Treaties
5. Redistributing Lands and Resources
6. Meaningful Work and Sustainable Wealth
7. Equipping for Self-Government

VOLUME 3
Gathering Strength

1. New Directions in Social Policy

1. Social Policy in Context
2. Confronting A Painful Legacy
3. Looking Ahead
4. From Dependency to Strength

2. The Family

1. Introduction
2. The Centrality of Family in Aboriginal Life
   - 2.1 Views from our Hearings
   - 2.2 Family Life in Various Traditions
   - 2.3 The Family as a Mediating Institution
3. "Our Children Are Our Future"
   - 3.1 The Special Place of Children in Aboriginal Cultures
   - 3.2 Historical Highlights
   - 3.3 Child Welfare Reform
   - 3.4 Current Issues
4. Family Violence
   - 4.1 Introduction
   - 4.2 Naming the Problem
   - 4.3 The Face of Aboriginal Violence
   - 4.4 Barriers to Change
   - 4.5 Solutions from the People

5. Aspects of Family Law
5.1 Continuity of Customary Law
5.2 Division of Property on Marriage Breakdown
5.3 Civil Law and Family Violence
6. Epilogue

3. Health and Healing

1. Introduction: Rethinking Aboriginal Health
1.1 The Continuing Crisis in Aboriginal Health and Welfare
1.2 The Scope and Substance of the Commission's Concern
1.3 Framework of the Chapter
2. The Burden of Ill Health
2.1 From the Past to the Present
2.2 Physical Health
2.3 Social and Emotional Health
2.4 Community Health
2.5 Conclusion
3. Toward a New Aboriginal Health and Healing Strategy
3.1 Aboriginal Perspectives on Health and Healing
3.2 The Determinants of Health
3.3 Two Great Traditions of Health and Healing: Convergence
3.4 Characteristics of a New Strategy
4. An Aboriginal Health and Healing Strategy
4.1 Initiating Systematic Change
4.2 Healing Centres
4.3 Human Resources Strategy
4.4 Enlisting the Support of the Mainstream Service System
4.5 Housing and Community Infrastructure
5. The Journey to Whole Health
Appendix 1 The Statistical Evidence
Appendix 2 A Stronger Role for Traditional Healing

4. Housing

1. The Housing and Living Conditions of Aboriginal People
1.1 Aboriginal and Canadian Housing Conditions
1.2 Contrasts Among Aboriginal Groups and Within Communities
2. Policy Foundations
2.1 Housing and Community Services as Basic Human Needs
2.2 A Right to Housing
2.3 Aboriginal Self-Government

3. Community Services: A Health Hazard
4. On-Reserve Housing
    4.1 Federal Housing Programs On-Reserve
    4.2 The Legal Regime and Tenure
    4.3 Rallying Resources to Meet the Need for Adequate Shelter
    4.4 Institutional Development
5. Housing in Non-Reserve Communities
    5.1 Policies and Programs
    5.2 The Institutional Base for Building Self-Reliance
    5.3 An Estimate of Government Expenditures Required
6. Government Expenditures to Achieve Adequate Housing for Aboriginal People in Ten Years
7. Revitalizing Aboriginal Communities Through Housing
    7.1 Economic Development
    7.2 Political, Social and Cultural Benefits

5. Education

1. Introduction
2. The Framework: Lifelong, Holistic Education
3. Children
    3.1 Introduction
    3.2 Early Childhood Education
    3.3 The Child in the Formal Education System
    3.4 Positive Directions for the Future
4. Youth
    4.1 Introduction
    4.2 Youth Empowerment
    4.3 Need for Local High Schools
    4.4 Youth Re-Entry to High School
    4.5 Transition to Economic Activity and Careers
5. Teacher Education Programs
    5.1 Quality of Teacher Education Programs
    5.2 The Need for More Elementary Education Teachers
    5.3 The Need for More Secondary Education Teachers
    5.4 Community-Based Teacher Education
    5.5 The Need for Other Educational Professionals
    5.6 The Education of Non-Aboriginal Teachers

6. Adults
6.1 Introduction
6.2 Getting in the Door
6.3 Inside the Door: Institutions Serving Aboriginal Adults
6.4 Preparing for the Job Market
7. Elders
8. Institutions to Sustain Aboriginality in the Future
8.1 Introduction
8.2 Aboriginal Peoples International University
8.3 Information Exchange: An Electronic Clearinghouse
8.4 Statistical Data Bases
8.5 Aboriginal Documentation Centre
9. Education for Self-Government
9.1 Planning for Self-Government
9.2 Programs That Work
9.3 A Profile of Human Resource Requirements for Self-Government
9.4 What Needs to Be Done
10. New Partnerships in Aboriginal Education
10.1 A Shift in Authority
10.2 Learning from the Past, Building for the Future
10.3 New Partnerships

6. Arts and Heritage

1. Introduction
2. Cultural Heritage
2.1 Sacred and Historic Sites
2.2 Sacred and Secular Artifacts
2.3 Intellectual Property
3. Language
3.1 The Importance of Language
3.2 The State of Language
3.3 Language Maintenance and Identity
3.4 Countering Language Shift
4. Communications
4.1 Introduction
4.2 Stereotypes and Self-Representation
4.3 Aboriginal Communications Media
5. Publishing
6. Visual and Performing Arts

7. Conclusion

1. Common Problems, Collective Solutions
2. Traditional Culture and Institutions of Self-Government
3. Policy Reform and Transition
   - 3.1 Social Policy as a Priority
   - 3.2 Integrated Approaches
   - 3.3 Creating Space for Aboriginal Initiative
4. Achieving a Balance

VOLUME 4
Perspectives and Realities

1. Introduction

2. Aboriginal Women's Perspectives

1. Introduction
   - 1.1 Historical Position and Role of Aboriginal Women: A Brief Overview
   - 1.2 Reversing a Pattern of Exclusion – Women's Priorities for Change
2. Aboriginal Women and Indian Policy: Evolution and Impacts
   - 2.1 Introduction
   - 2.2 Policy Development and its Impact on Aboriginal Women
   - 2.3 Bill C-31
   - 2.4 The *Indian Act* and Bill C-31: Areas of Concern to First Nations Women
3. Health and Social Services: A Priority on Healing
4. The Need for Places of Refuge
5. The Rise of Aboriginal Women's Organizations
6. The Need for Fairness and Accountability
7. The Family
   - 7.1 Birth and Midwifery
   - 7.2 Child Support and Child Care
   - 7.3 Concern for Youth
   - 7.4 Concern for the Elderly
   - 7.5 Making a Living
8. Conclusion

Appendices

3. The Elders' Perspectives

1. Introduction
2. Who are the Elders?

3. The Elders' Perspectives
   3.1 The North American Intellectual Tradition
   3.2 Cultural Wisdom and the Oral Tradition
   3.3 When Cultures Collide
4. Traditional Culture in the Modern World: The Elders' Role
   4.1 The Context
   4.2 Freedom to Live a Traditional Spiritual Life
5. Elders and...
   5.1 Culture, Language and Values
   5.2 Education
   5.3 Justice
   5.4 Governance
   5.5 Traditional Health and Healing
   5.6 Social Issues
   5.7 Lands and Resources
6. Conclusion: A Call for Action

4. The Search for Belonging: Perspectives of Aboriginal Youth

1. Introduction: The Vision of Aboriginal Youth
2. The Reality for Aboriginal Youth: An Overview of Current Conditions
   2.1 An Aboriginal Youth Profile
   2.2 The Importance of Listening to Aboriginal Youth
3. Toward Whole Health
   3.1 The Need for Whole Health
   3.2 Spiritual Health
   3.3 A Healthy Mind
   3.4 A Healthy Body
   3.5 Emotional Health
4. Making a Difference: Empowering Aboriginal Youth
   4.1 Empowerment
   4.2 Recognition and Involvement
   4.3 Economic Empowerment
5. Consolidation: A Framework for a Canada-Wide Aboriginal Youth Policy
   5.1 The Need for a Canada-wide Policy
   5.2 The Policy Framework
6. Conclusion

5. Métis Perspectives

1. The Other Aboriginal Peoples
   1.1 Genesis
   1.2 A Nation-to-Nation Approach
   1.3 Métis Identity
   1.4 Multiple Métis Cultures and Communities
   1.5 All Métis Protected by Section 35
   1.6 All Métis Covered by Section 91(24)
   1.7 A Statistical Profile
   1.8 Métis Rights
   1.9 Discrimination and Neglect
2. The Métis Nation
   2.1 The Past
   2.2 The Present and the Future
3. The Other Métis
   3.1 The Past
   3.2 The Present and the Future
Appendices Sources of Métis Rights

6. The North

1. Introduction
   1.1 Background: Living in the North
   1.2 The Commission's Approach to the North
2. What Northerners Told the Commission
   2.1 The Four Themes
   2.2 How the Themes are Related
3. The Source of the Current Problems
   3.1 Early Northern Administration
   3.2 Wartime and After: A Problem of Development?
   3.3 The Changing Balance of Power in the 1970s
4. Regional Dimensions of Political Development
   4.1 Yukon First Nations
   4.2 Dene
   4.3 Métis of the Northwest Territories
   4.4 Inuit
5. Environmental Stewardship
   5.1 Introduction
   5.2 Pollution Control

5.3 Environmental Management Regimes
5.4 Traditional Knowledge
5.5 The International Agenda on the Environment
5.6 Conclusions
6. Support for the Northern Economy
6.1 Past Approaches to Northern Economic Development
6.2 The Contemporary Northern Economy
6.3 The Value of Country Food
6.4 Supporting the Traditional-Mixed Economy
6.5 Conclusions
7. Investing in People
7.1 The Need to Heal
7.2 The Opportunities Presented by Political Development
7.3 Conclusions

7. Urban Perspectives

1. Introduction
2. Cultural Identity
2.1 The Essence of Cultural Identity
2.2 Racism
2.3 Urbanization
2.4 Enhancing Cultural Identities in Urban Areas
2.5 Conclusion
3. Financing Social Programs for People Not Living on Aboriginal Territory
3.1 Introduction
3.2 Jurisdictional Roles
3.3 Fiscal Off-Loading
3.4 Federal-Provincial Fiscal Arrangements
3.5 The Commission's Proposals
3.6 Rationale for Provincial Role: The Right to Equality of Treatment
3.7 Conclusion
4. Service Delivery
4.1 Introduction
4.2 The Current Situation
4.3 Cultural Appropriateness
4.4 Reform
4.5 Special Perspectives
4.6 Friendship Centres
4.7 Urban Aboriginal Cultural Education Program

5. Aboriginal Women in Urban Areas
5.1 Introduction
5.2 Who Are Urban Aboriginal Women?
5.3 Migration
5.4 The Urban Experience
5.5 Housing
5.6 Services
5.7 Conclusions
6. Governance for Aboriginal People in Urban Areas
6.1 Reform of Canadian Urban Governments and Public Authorities
6.2 Urban Communities of Interest
6.3 Nation-Based Approaches to Urban Self-Government
6.4 Conclusions
7. Urban Demographics and Socio-Economic Conditions
7.1 Introduction
7.2 Aboriginal Peoples Survey
7.3 Population Size and Dynamics
7.4 Composition of Urban Aboriginal Populations
7.5 Demographic, Social and Economic Conditions
7.6 Conclusion

VOLUME 5

RENEWAL: A TWENTY-YEAR COMMITMENT

1. Laying the Foundations of a Renewed Relationship
1. A New Beginning
2. Content of the Proclamation and its Companion Legislation
2.1 Preamble
2.2 Procedure for the Recognition of Nations
2.3 The Treaty Processes
2.4 Lands and Resources
3. A Canada-Wide Framework Agreement
4. Gathering Strength
4.1 Social Issues and Structural Change
4.2 Four Dimensions of Social Change
4.3 Federal, Provincial and Territorial Contributions

5. Keeping Track of Progress
6. A Broad Mandate – An Interactive Strategy

2. Economic Disparities, Government Expenditures and the Cost of the Status Quo

1. The Cost of Forgone Production
2. Government Expenditures: The Burden of Remedial Costs
   2.1 Federal Expenditures on Targeted Programs
   2.2 Total Expenditures of all Governments
3. Dependency on Financial Assistance and Remedial Programs
4. Escalating Costs of the Status Quo

3. A Strategy for Renewal as a Good Investment

1. Financing Fundamental Change
2. Structural Measures: Establishing a New Relationship
3. Social and Economic Measures: Gathering Strength
4. Beyond the Twenty-Year Horizon
5. The Distribution of Costs and Gains Among Governments
6. Realizing the Gains: The Pace of Progress

4. Public Education: Building Awareness and Understanding

1. Introduction
2. Making Public Education a Reality
   2.1 Creating Dialogue
   2.2 Cross-Cultural Communication
3. Stakeholder Groups
   3.1 Religious Institutions
   3.2 Municipalities
   3.3 Educational Institutions
   3.4 Labour Unions
   3.5 Professional Organizations
   3.6 Other Stakeholders
4. Aboriginal Organizations
5. The Media
6. Symbols and Special Occasions
7. Governments
8. Resources
9. Immediate Steps

5. Constitutional Amendment: The Ultimate Challenge

1. The Canadian Amending Formula
2. Constitutional Amendments and the Commission's Report
   - 2.1 Amendments for Greater Certainty
   - 2.2 Consequential Amendments
   - 2.3 Institutional Amendments
   - 2.4 Other Amendments

Appendix 5A Procedure for Amending the Constitution of Canada

Appendix A How We Fulfilled Our Mandate

Appendix B Abridged Tables of Contents

Appendix C Ethical Guidelines for Research

Appendix D

The Royal Proclamation of 7 October 1763

The following text of the Royal Proclamation of 1763 *is derived from Clarence S. Brigham, ed.,* British Royal Proclamations Relating to America, *Volume 12, Transactions and Collections of the American Antiquarian Society (Worcester, Massachusetts: American Antiquarian Society, 1911), pp. 212-18, which reproduces the original text of the Proclamation printed by the King's Printer, Mark Baskett, in London in 1763. This text appears to be the most authoritative printed version of the Proclamation available. We have quoted this text throughout the report in preference to other printed versions, such as that found in the appendices of the Revised Statutes of Canada, 1985, which are of dubious origins and exhibit a number of variations in spelling, punctuation and paragraphing. For discussion of the status of the various versions of the Proclamation text, see Brian Slattery, "The Land Rights of Indigenous Canadian Peoples", doctoral dissertation, Oxford University, 1979, p. 204, note 1.*

1763, OCTOBER 7.

BY THE KING.

A Proclamation

GEORGE R.

Whereas We have taken into Our Royal Consideration the extensive and valuable Acquisitions in America, secured to Our Crown by the late Definitive Treaty of Peace, concluded at Paris the Tenth Day of February last, and being desirous, that all Our loving Subjects, as well of Our Kingdoms as of Our Colonies in America, may avail themselves, with all convenient Speed, of the great Benefits and Advantages which must accrue therefrom to their Commerce, Manufactures, and Navigation; We have thought fit, with the Advice of Our Privy Council, to issue this Our Royal Proclamation, hereby to publish and declare to all Our loving Subjects, that We have, with the Advice of Our said Privy Council, granted Our Letters Patent under Our Great Seal of Great Britain, to erect within the Countries and Islands ceded and confirmed to Us by the said Treaty, Four distinct and separate Governments, stiled and called by the Names of Quebec, East Florida, West Florida, and Grenada, and limited and bounded as follows; viz.

First. The Government of Quebec, bounded on the Labrador Coast by the River St. John, and from thence by a Line drawn from the Head of that River through the Lake St. John to the South End of the Lake nigh Pissin; from whence the said Line crossing the River St. Lawrence and the Lake Champlain in Forty five Degrees of North Latitude, passes along the High Lands which divide the Rivers that empty themselves into the said River St. Lawrence, from those which fall into the Sea; and also along the North Coast of the Baye des Chaleurs, and the Coast of the Gulph of St. Lawrence to Cape Rosieres, and from thence crossing the Mouth of the River St. Lawrence by the West End of the Island of Antiocosti, terminates at the aforesaid River of St. John.

Secondly. The Government of East Florida, bounded to the Westward by the Gulph of Mexico, and the Apalachicola River; to the Northward, by a Line drawn from that Part of the said River where the Chatahouchee and Flint Rivers meet, to the Source of St. Mary's River, and by the Course of the said River to the Atlantick Ocean; and to the Eastward and Southward, by the Atlantick Ocean, and the Gulph of Florida, including all Islands within Six Leagues of the Sea Coast.

Thirdly. The Government of West Florida, bounded to the Southward by the Gulph of Mexico, including all Islands within Six Leagues of the Coast from the River Apalachicola to Lake Pentchartain; to the Westward, by the said Lake, the Lake Mauripas, and the River Mississippi; to the Northward, by a Line drawn due East from that Part of the River Mississippi which lies in Thirty one Degrees North Latitude, to the River Apalachicola or Chatahouchee; and to the Eastward by the said River.

Fourthly. The Government of Grenada, comprehending the Island of that Name, together with the Grenadines, and the Islands of Dominico, St. Vincents and Tobago.

And, to the End that the open and free Fishery of Our Subjects may be extended to and carried on upon the Coast of Labrador and the adjacent Islands, We have thought fit, with the Advice of Our said Privy Council, to put all that Coast, from the River St. John's to Hudson's Straights, together with the Islands of Anticosti and Madelaine, and all other smaller Islands lying upon the said Coast, under the Care and Inspection of Our Governor of Newfoundland.

We have also, with the Advice of Our Privy Council, thought fit to annex the Islands of St. John's, and Cape Breton or Isle Royale, with the lesser Islands adjacent thereto, to Our Government of Nova Scotia.

We have also, with the Advice of Our Privy Council aforesaid, annexed to Our Province of Georgia all the Lands lying between the Rivers Attamaha and St. Mary's.

And whereas it will greatly contribute to the speedy settling Our said new Governments, that Our loving Subjects should be informed of Our Paternal Care for the Security of the Liberties and Properties of those who are and shall

become Inhabitants thereof; We have thought fit to publish and declare, by this Our Proclamation, that We have, in the Letters Patent under Our Great Seal of Great Britain, by which the said Governments are constituted, given express Power and Direction to Our Governors of Our said Colonies respectively, that so soon as the State and Circumstances of the said Colonies will admit thereof, they shall, with the Advice and Consent of the Members of Our Council, summon and call General Assemblies within the said Governments respectively, in such Manner and Form as is used and directed in those Colonies and Provinces in America, which are under Our immediate Government; and We have also given Power to the said Governors, with the Consent of Our said Councils, and the Representatives of the People, so to be summoned as aforesaid, to make, constitute, and ordain Laws, Statutes, and Ordinances for the Publick Peace, Welfare, and Good Government of Our said Colonies, and of the People and Inhabitants thereof, as near as may be agreeable to the Laws of England, and under such Regulations and Restrictions as are used in other Colonies: And in the mean Time, and until such Assemblies can be called as aforesaid, all Persons inhabiting in, or resorting to Our said Colonies, may confide in Our Royal Protection for the Enjoyment of the Benefit of the Laws of Our Realm of England; for which Purpose, We have given Power under Our Great Seal to the Governors of Our said Colonies respectively, to erect and constitute, with the Advice of Our said Councils respectively, Courts of Judicature and Publick Justice, within Our said Colonies, for the hearing and determining all Causes, as well Criminal as Civil, according to Law and Equity, and as near as may be agreeable to the Laws of England, with Liberty to all Persons who may think themselves aggrieved by the Sentences of such Courts, in all Civil Cases, to appeal, under the usual Limitations and Restrictions, to Us in Our Privy Council.

We have also thought fit, with the Advice of Our Privy Council as aforesaid, to give unto the Governors and Councils of Our said Three New Colonies upon the Continent, full Power and Authority to settle and agree with the Inhabitants of Our said New Colonies, or with any other Persons who shall resort thereto, for such Lands, Tenements, and Hereditaments, as are now, or hereafter shall be in Our Power to dispose of, and them to grant to any such Person or Persons, upon such Terms, and under such moderate Quit-Rents, Services, and Acknowledgements as have been appointed and settled in Our other Colonies, and under such other Conditions as shall appear to Us to be necessary and expedient for the Advantage of the Grantees, and the Improvement and Settlement of our said Colonies.

And whereas We are desirous, upon all Occasions, to testify Our Royal Sense and Approbation of the Conduct and Bravery of the Officers and Soldiers of Our Armies, and to reward the same, We do hereby command and impower Our Governors of Our said Three New Colonies, and all other Our Governors of Our several Provinces on the Continent of North America, to grant, without

Fee or Reward, to such Reduced Officers as have served in North America during the late War, and to such Private Soldiers as have been or shall be disbanded in America, and are actually residing there, and shall personally apply for the same, the following Quantities of Lands, subject at the Expiration of Ten Years to the same Quit-Rents as other Lands are subject to in the Province within which they are granted, as also subject to the same Conditions of Cultivation and Improvement; viz.

To every Person having the Rank of a Field Officer, Five thousand Acres. – To every Captain, Three thousand Acres. – To every Subaltern or Staff Officer, Two thousand Acres. – To every Non-Commission Officer, Two hundred Acres. – To every Private Man, Fifty Acres.

We do likewise authorize and require the Governors and Commanders in Chief of all Our said Colonies upon the Continent of North America, to grant the like Quantities of Land, and upon the same Conditions, to such Reduced Officers of Our Navy, of like Rank, as served on Board Our Ships of War in North America at the Times of the Reduction of Louisbourg and Quebec in the late War, and who shall personally apply to Our respective Governors for such Grants.

And whereas it is just and reasonable, and essential to Our Interest and the Security of Our Colonies, that the several Nations or Tribes of Indians, with whom We are connected, and who live under Our Protection, should not be molested or disturbed in the Possession of such Parts of Our Dominions and Territories as, not having been ceded to, or purchased by Us, are reserved to them, or any of them, as their Hunting Grounds; We do therefore, with the Advice of Our Privy Council, declare it to be Our Royal Will and Pleasure, that no Governor or Commander in Chief in any of Our Colonies of Quebec, East Florida, or West Florida, do presume, upon any Pretence whatever, to grant Warrants of Survey, or pass any Patents for Lands beyond the Bounds of their respective Governments, as described in their Commissions; as also, that no Governor or Commander in Chief in any of Our other Colonies or Plantations in America, do presume, for the present, and until Our further Pleasure be known, to grant Warrants of Survey, or pass Patents for any Lands beyond the Heads or Sources of any of the Rivers which fall into the Atlantick Ocean from the West and North-West, or upon any Lands whatever, which, not having been ceded to, or purchased by Us as aforesaid, are reserved to the said Indians, or any of them.

And We do further declare it to be Our Royal Will and Pleasure, for the present as aforesaid, to reserve under Our Sovereignty, Protection, and Dominion, for the Use of the said Indians, all the Lands and Territories not included within the Limits of Our said Three New Governments, or within the Limits of the Territory granted to the Hudson's Bay Company, as also all the Lands and Territories lying to the Westward of the Sources of the Rivers which fall into the Sea from the West and North West, as aforesaid; and We do hereby strictly forbid, on Pain of Our Displeasure, all Our loving Subjects from making

any Purchases or Settlements whatever, or taking Possession of any of the Lands above reserved, without Our especial Leave and Licence for that Purpose first obtained.

And We do further strictly enjoin and require all Persons whatever, who have either wilfully or inadvertently seated themselves upon any Lands within the Countries above described, or upon any other Lands, which, not having been ceded to, or purchased by Us, are still reserved to the said Indians as aforesaid, forthwith to remove themselves from such Settlements.

And whereas great Frauds and Abuses have been committed in the purchasing Lands of the Indians, to the great Prejudice of Our Interests, and to the great Dissatisfaction of the said Indians; in order therefore to prevent such Irregularities for the future, and to the End that the Indians may be convinced of Our Justice, and determined Resolution to remove all reasonable Cause of Discontent, We do, with the Advice of Our Privy Council, strictly enjoin and require, that no private Person do presume to make any Purchase from the said Indians of any Lands reserved to the said Indians, within those Parts of Our Colonies where We have thought proper to allow Settlement; but that if, at any Time, any of the said Indians should be inclined to dispose of the said Lands, that same shall be purchased only for Us, in Our Name, at some publick Meeting or Assembly of the said Indians to be held for that Purpose by the Governor or Commander in Chief of Our Colonies respectively, within which they shall lie: and in case they shall lie within the Limits of any Proprietary Government, they shall be purchased only for the Use and in the Name of such Proprietaries, conformable to such Directions and Instructions as We or they shall think proper to give for that Purpose: And We do, by the Advice of Our Privy Council, declare and enjoin, that the Trade with the said Indians shall be free and open to all our Subjects whatever; provided that every Person, who may incline to trade with the said Indians, do take out a Licence for carrying on such Trade from the Governor or Commander in Chief of any of Our Colonies respectively, where such Person shall reside; and also give Security to observe such Regulations as We shall at any Time think fit, by Ourselves or by Our Commissaries to be appointed for this Purpose, to direct and appoint for the Benefit of the said Trade; And We do hereby authorize, enjoin, and require the Governors and Commanders in Chief of all Our Colonies respectively, as well Those under Our immediate Government as those under the Government and Direction of Proprietaries, to grant such Licences without Fee or Reward, taking especial Care to insert therein a Condition, that such Licence shall be void, and the Security forfeited, in Case the Person, to whom the same is granted, shall refuse or neglect to observe such Regulations as We shall think proper to prescribe as aforesaid.

And We do further expressly enjoin and require all Officers whatever, as well Military as those employed in the Management and Direction of Indian

Affairs within the Territories reserved as aforesaid for the Use of the said Indians, to seize and apprehend all Persons whatever, who, standing charged with Treasons, Misprisions of Treason, Murders, or other Felonies or Misdemeanours, shall fly from Justice, and take Refuge in the said Territory, and to send them under a proper Guard to the Colony where the Crime was committed of which they stand accused, in order to take their Tryal for the same.

Given at Our Court at St. James's, the Seventh Day of October, One thousand seven hundred and sixty three, in the Third Year of Our Reign.

God Save the King

London: Printed by Mark Baskett, Printer to the King's most Excellent Majesty; and by the Assigns of Robert Baskett. 1763.

Appendix E

Summary of Recommendations in Volume 1

We have grouped the recommendations made in this volume by theme rather than in the order in which they appear in the text. The original numbering of recommendations has been retained (that is, with the first number representing the volume, the second the chapter number and the third the recommendation number) to facilitate placing them in their original context.

The Commission recommends that a renewed relationship between Aboriginal and non-Aboriginal people in Canada be established on the basis of justice and fairness.

The Commission recommends that

Commitment to Ethical Principles of Relations

1.16.1

To begin the process, the federal, provincial and territorial governments, on behalf of the people of Canada, and national Aboriginal organizations, on behalf of the Aboriginal peoples of Canada, commit themselves to building a renewed relationship based on the principles of mutual recognition, mutual respect, sharing and mutual responsibility; these principles to form the ethical basis of relations between Aboriginal and non-Aboriginal societies in the future and to be enshrined in a new Royal Proclamation and its companion legislation (see Volume 2, Chapter 2).

Terra Nullius and the Doctrine of Discovery

1.16.2

Federal, provincial and territorial governments further the process of renewal by

(a) acknowledging that concepts such as *terra nullius* and the doctrine of discovery are factually, legally and morally wrong;

(b) declaring that such concepts no longer form part of law making or policy development by Canadian governments;

(c) declaring that such concepts will not be the basis of arguments presented to the courts;

(d) committing themselves to renewal of the federation through consensual means to overcome the historical legacy

of these concepts, which are impediments to Aboriginal people assuming their rightful place in the Canadian federation; and

(e) including a declaration to these ends in the new Royal Proclamation and its companion legislation.

That the appropriate place of Aboriginal peoples in Canadian history be recognized.

The Commission recommends that

Aboriginal History Series Project

1.7.1

The Government of Canada

(a) commit to publication of a general history of Aboriginal peoples of Canada in a series of volumes reflecting the diversity of nations, to be completed within 20 years;

(b) allocate funding to the Social Sciences and Humanities Research Council to convene a board, with a majority of Aboriginal people, interests and expertise, to plan and guide the Aboriginal History Project; and

(c) pursue partnerships with provincial and territorial governments, educational authorities, Aboriginal nations and communities, oral historians and elders, Aboriginal and non-Aboriginal scholars and educational and research institutions, private donors and publishers to ensure broad support for and wide dissemination of the series.

1.7.2

In overseeing the project, the board give due attention to

- the right of Aboriginal people to represent themselves, their cultures and their histories in ways they consider authentic;
- the diversity of Aboriginal peoples, regions and communities;
- the authority of oral histories and oral historians;
- the significance of Aboriginal languages in communicating Aboriginal knowledge and perspectives; and
- the application of current and emerging multimedia technologies to represent the physical and social contexts and the elements of speech, song and drama that are fundamental to transmission of Aboriginal history.

That the nature and scope of the injury caused to Aboriginal people by past policies in relation to residential schools be established and appropriate remedies devised therefor.

The Commission recommends that

Public Inquiry **1.10.1**

Under Part I of the *Public Inquiries Act,* the government of Canada establish a public inquiry instructed to

(a) investigate and document the origins and effects of residential school policies and practices respecting all Aboriginal peoples, with particular attention to the nature and extent of effects on subsequent generations of individuals and families, and on communities and Aboriginal societies;

(b) conduct public hearings across the country with sufficient funding to enable the testimony of affected persons to be heard;

(c) commission research and analysis of the breadth of the effects of these policies and practices;

(d) investigate the record of residential schools with a view to the identification of abuse and what action, if any, is considered appropriate; and

(e) recommend remedial action by governments and the responsible churches deemed necessary by the inquiry to relieve conditions created by the residential school experience, including as appropriate,

- apologies by those responsible;
- compensation of communities to design and administer programs that help the healing process and rebuild their community life; and
- funding for treatment of affected individuals and their families.

Aboriginal Majority **1.10.2**

A majority of commissioners appointed to this public inquiry be Aboriginal.

National Repository **1.10.3**

The government of Canada fund establishment of a national repository of records and video collections related to residential schools, co-ordinated with planning of the recommended Aboriginal Peoples' International University (see Volume 3, Chapter 5) and its electronic clearinghouse, to

- facilitate access to documentation and electronic exchange of research on residential schools;
- provide financial assistance for the collection of testimony and continuing research;
- work with educators in the design of Aboriginal curriculum that explains the history and effects of residential schools; and
- conduct public education programs on the history and effects of residential schools and remedies applied to relieve their negative effects.

That the nature and scope of the injury caused to Aboriginal people by past policies in relation to the relocation of Aboriginal communities be established and appropriate remedies devised therefor.

The Commission recommends that

Violation of Rights

1.11.1
Governments acknowledge that where the relocation of Aboriginal communities did not conform to the criteria set out in Recommendation 1.11.2, such relocations constituted a violation of their members' human rights.

Amend the *Canadian Human Rights Act*

1.11.2
Parliament amend the *Canadian Human Rights Act* to authorize the Canadian Human Rights Commission to inquire into, hold hearings on, and make recommendations on relocations of Aboriginal peoples to decide whether

(a) the federal government had proper authority to proceed with the relocations;
(b) relocatees gave their free and informed consent to the relocations;
(c) the relocations were well planned and carried out;
(d) promises made to those who were relocated were kept;
(e) relocation was humane and in keeping with Canada's international commitments and obligations; and
(f) government actions conformed to its fiduciary obligation to Aboriginal peoples.

15-Year Mandate

1.11.3
The Canadian Human Rights Commission be authorized to conduct inquiries into relocations, including those that occurred before the Commission's creation in 1978, and that with respect

to the latter relocations, its mandate expire 15 years after coming into force.

Violation of the Act

1.11.4

Parliament amend the *Canadian Human Rights Act* to provide that it is a violation of the act if a relocation of an Aboriginal community does not conform to the six criteria listed in Recommendation 1.11.2, and that the provisions in Recommendation 1.11.11 apply in those circumstances where appropriate.

Alternative Dispute Mechanisms

1.11.5

The Canadian Human Rights Commission be authorized specifically to provide a range of alternative dispute resolution mechanisms, including mediation, facilitation, and consensual arbitration.

Powers

1.11.6

The Canadian Human Rights Commission be given subpoena powers with respect to documents, evidence and witnesses, and powers to compel testimony and appoint experts and counsel.

Remedies

1.11.7

The Canadian Human Rights Commission be given the authority to recommend a range of remedies to redress the negative effects of relocations, including

- provision for essential social infrastructure or services or special community initiatives;
- provision for relocatees to return to and re-establish in the home community;
- provision for visiting between separated families;
- funding of additional services, for example, to assist the readjustment of returnees, or all persons still adversely affected by the relocations;
- settlement of individual claims for compensation for, among other things, unpaid work done or services rendered during relocation and personal property lost or left behind; and
- costs, including future costs, incurred by relocatees or their representatives in attempting to resolve their complaints.

Public Reports

1.11.8

The Canadian Human Rights Commission be required to describe activity on relocation claims in its annual report and

be authorized to make special reports as it sees fit and periodically review and report on action on its recommendations.

Governments Co-operate

1.11.9

Federal, provincial and territorial governments co-operate with communities and the Canadian Human Rights Commission by opening their files on relocation to facilitate research.

Funding for Communities

1.11.10

Aboriginal communities be given funding by the Canadian Human Rights Commission, upon decision of a panel of advisers appointed by but independent of the Commission, as follows:

(a) seed funding, of up to $10,000, to conduct preliminary research on their claims after *prima facie* assessment of the merits of their applications; and
(b) adequate additional funding when, in the panel's judgement, the communities have claims sufficient to warrant inquiry by the Commission.

Recourse to Courts

1.11.11

The Canadian Human Rights Commission be authorized to apply to an appropriate tribunal to obtain any appropriate measure against the government of Canada, or to demand in favour of the Aboriginal community or communities in question any measure of redress it considers appropriate at the time, where

(a) the parties will not agree to mediation or arbitration of the dispute; or
(b) proposals of the Commission have not been carried out within an allotted time to its satisfaction; and
(c) application to a tribunal or demand in favour of a community is with the consent of concerned communities.

International Standards

1.11.12

Canada participate fully in efforts to develop further international standards to protect Indigenous peoples against arbitrary relocation and ensure that Canadian law incorporates the spirit and intent of international norms, standards and covenants relating to relocation.

Repository of Records

1.11.13

The national repository for records on residential schools proposed in Recommendation 1.10.3 and its related research activities also cover all matters relating to relocations.

That the nature and scope of the injury caused to Aboriginal people by past discriminatory policies in relation to Aboriginal veterans be established and appropriate remedies devised therefor.

The Commission recommends that

Acknowledge Contribution

1.12.1

Acknowledge, on behalf of the people of Canada, the contribution of Aboriginal people within the Canadian Armed Forces during the wars of this century (the First World War, the Second World War and Korea) by

(a) giving a higher profile to Aboriginal veterans at national Remembrance Day services;
(b) funding the erection of war memorials in Aboriginal communities; and
(c) funding the continuing work of Aboriginal veterans' organizations.

Appoint Ombudsman

1.12.2

Agree to Aboriginal veterans' requests for an ombudsman to work with the departments of veterans affairs and Indian affairs and northern development and national and provincial veterans' organizations to resolve long-standing disputes concerning

- Aboriginal veterans' access to and just receipt of veterans benefits; and
- the legality and fairness of the sales, leases and appropriations of Indian lands for purposes related to the war effort and for distribution to returning veterans of the two world wars.

Aboriginal Personnel

1.12.3

Hire Aboriginal people with appropriate language skills and cultural understanding in the Department of Veterans Affairs to serve distinct Aboriginal client groups.

Foundation

1.12.4

Establish and fund a non-profit foundation in honour of Aboriginal veterans to promote and facilitate education and research in Aboriginal history and implement stay-in-school initiatives for Aboriginal students.

1940